

AMENDED IN ASSEMBLY JUNE 5, 2008

AMENDED IN SENATE MAY 5, 2008

AMENDED IN SENATE APRIL 16, 2008

SENATE BILL

No. 1779

Introduced by Committee on Business, Professions and Economic Development (Senators Ridley-Thomas (Chair), Aanestad, Calderon, Corbett, Denham, Florez, Harman, Simitian, and Yee)

March 13, 2008

An act to amend Sections 128.5, 149, 683, 733, 800, 801, 803, 2089.5, 2096, 2102, 2107, 2135, 2175, 2307, 2335, 2486, 2488, 2570.5, 2570.6, 2760.1, 3503, 3517, 3518, 3625, 3633.1, 3635, 3636, 3685, 3750.5, 3753.5, 3773, 4022.5, 4027, 4040, 4051, 4059.5, 4060, 4062, 4076, 4081, 4110, 4111, 4126.5, 4174, 4231, 4301, 4305, 4329, ~~and 4330~~ 4330, 4980.03, 4980.30, 4980.43, 4982, 4989.54, 4992.3, 4996.2, 4996.17, 4996.18, and 4996.23 of, to amend and renumber Section 2570.185 of, to add Sections 2570.36, 4036.5, 4980.04, and 4990.09 to, and to repeal Sections 2172, 2173, ~~and 2174~~ 2174, 4981, 4994.1, 4996.20, and 4996.21 of, the Business and Professions Code, to amend Section 8659 of the Government Code, and to amend Sections 11150 and 11165 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1779, as amended, Committee on Business, Professions and Economic Development. Healing arts.

(1) ~~Existing~~—Under existing law, if, upon investigation, a specified state regulatory agency has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or

registered with that agency, the agency is authorized to issue a specified citation.

This bill would add the Physical Therapy Board of California to those authorized agencies.

Existing law requires specified licensure boards to report to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive, or otherwise restricted, and requires specified licensure boards to create and maintain a central file of the names of all persons who hold a license from the board, and to prescribe and promulgate written complaint forms, as specified.

This bill would also subject the California Board of Occupational Therapy to these requirements, and would subject the Acupuncture Board to the requirement to create and maintain a central file of the names of its licensees and to prescribe and promulgate written complaint forms, as specified.

(2) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California, in the Department of Consumer Affairs. The act requires each applicant for a physician and surgeon's license to meet specified training and examinations requirements, authorizes the appointment of examination commissioners, requires that examinations be conducted in English, except as specified, allows the examinations to be conducted in specified locations, requires notice of examinations to contain certain information, and requires examination records to be kept on file for a period of 2 years or more. The act authorizes a person whose certificate has been surrendered, revoked, suspended, or placed on probation, as specified, to petition for reinstatement of the certificate or modification of the penalty if specified requirements are met.

This bill would revise the training requirements for a physician and surgeon's license, and would delete the requirement of passage of a clinical competency examination that is applicable to certain applicants. The bill would delete the provisions related to the appointment of examination commissioners, examinations being conducted in English and examination interpreters, the location of examinations, and examination notices. The bill would also delete the requirement that the board keep examination records on file for at least 2 years, and would instead require the board to keep state examination records on file until June 2069. The bill would revise the requirements for a petition for reinstatement or modification, as specified.

Existing law provides for the licensure and regulation of podiatrists by the Board of Podiatric Medicine in the Medical Board of California. Existing law authorizes the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 90 calendar days. Existing law requires an applicant for a certificate to practice podiatric medicine to meet specified application procedures.

This bill would instead authorize the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 100 calendar days. The bill would revise the application procedures for a certificate to practice podiatric medicine, as specified.

(3) Existing law, the Occupational Therapy Practice Act, provides for the licensure ~~and regulation~~ of occupational therapists *and the certification of occupational therapy assistants* by the California Board of Occupational Therapy. Existing law requires an occupational therapist to document his or her evaluation, goals, treatment plan, and summary of treatment in a patient record. Existing law authorizes a limited permit to practice occupational therapy to be granted if specified education and examination requirements are met, but provides that if the person fails to qualify for or pass the first announced licensure examination, all limited permit privileges automatically cease upon due notice. *Existing law requires an applicant applying for a license or certification to file with the board a written application provided by and satisfactory to the board, showing that he or she meets certain requirements, including, but not limited to, successful completion of an educational program's academic requirements approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE) and successful completion of a period of supervised fieldwork experience. Existing law also specifies the curriculum requirements for an education program for occupational therapists and occupational therapy assistants.*

This bill would require an occupational therapy assistant to document in a patient record the services provided to the patient, and would require an occupational therapist or assistant to document and sign a patient record legibly. The bill would revise the provisions related to limited permit privileges to instead provide that a person's failure to pass the licensure examination during the initial eligibility period would cause the privileges to automatically cease upon due notice. *The bill would require that the applicant successfully complete the educational*

program's academic requirements approved by the board and accredited by ACOTE, or accredited or approved by the American Occupational Therapy Association's predecessor organization, or approved by AOTA's Career Mobility Program. The bill would also revise those curriculum requirements for an educational program. The bill would authorize an applicant who is a graduate of an educational program and is unable to provide evidence of having met the curriculum requirements to demonstrate passage of a specified examination as evidence of having successfully satisfied the curriculum requirements. The bill would require an applicant who completed AOTA's Career Mobility Program to demonstrate participation in the program and passage of a specified examination as evidence of having successfully satisfied the educational program and curriculum requirements. The bill would revise the supervised fieldwork experience requirement. The bill would require a licensee to report to the board violations of the Occupational Therapy Practice Act by licensees or applicants for licensure and to cooperate with the board, as specified.

(4) Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurses by the Board of Registered Nursing in the Department of Consumer Affairs. Existing law authorizes a registered nurse whose license is revoked or suspended, or who is placed on probation, to petition for reinstatement of his or her license or modification of the penalty after a specified time period.

This bill would require a petition by a registered nurse whose initial license application is subject to a disciplinary decision to be filed after a specified time period from the date upon which his or her initial license was issued.

(5) *Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician's assistants by the Physician Assistant Committee of the Medical Board of California. Existing law authorizes the committee to grant interim approval to an applicant for licensure as a physician assistant.*

This bill would delete that authority to grant interim approval and would make conforming changes.

~~(5)~~

(6) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Bureau of Naturopathic Medicine in the Department of Consumer Affairs. Existing law authorizes the bureau to grant a license to a person meeting certain requirements who has graduated from training prior to 1986 if the

application is received prior to 2008, and requires licensees to obtain continuing education through specified continuing education courses. Existing law requires a licensee on inactive status to meet certain requirements in order to restore his or her license to active status, including paying a reactivation fee.

This bill would require an application for licensure by a person who graduated from training prior to 1986 to be received by the bureau prior to 2011, and would revise the standards for continuing education courses. The bill would delete the requirement that a licensee on inactive status pay a reactivation fee in order to restore his or her license to active status, and would instead require him or her to be current with all licensing fees.

Existing law authorizes the Director of Consumer Affairs to establish an advisory council related to naturopathic doctors composed of members who receive no compensation, travel allowances, or reimbursement of expenses.

This bill would delete the requirement that the members of the advisory council receive no compensation, travel allowances, or reimbursement of expenses.

(6)

(7) Existing law provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. Existing law authorizes the board to deny, suspend, or revoke a license to practice respiratory therapy if the licensee obtains or possesses in violation of the law, except as directed by a licensed physician and surgeon, dentist, or podiatrist, or furnishes or administers or uses a controlled substance or dangerous drug, as defined. Existing law authorizes the board to direct a practitioner or applicant who is found to have violated the law to pay the costs of investigation and prosecution. Existing law requires an applicant for renewal of a respiratory care practitioner license to notify the board of specified information.

This bill would revise the board's authority to deny, suspend, or revoke a license to practice respiratory therapy for obtaining, possessing, using, administering, or furnishing controlled substances or dangerous drugs, and would also authorize the board to deny, suspend, or revoke a license if a licensee uses any controlled substance, dangerous drug, or alcoholic beverage to an extent or manner dangerous or injurious to himself or herself, the public, or another person, or to the extent that it impairs his or her ability to practice safely. The bill would also authorize

the board to direct a practitioner or applicant who is found to have violated a term or condition of board probation to pay the costs for investigation and prosecution. The bill would require an applicant for renewal of a respiratory care practitioner license to cooperate in furnishing additional information to the board, as requested, and would provide that, if a licensee fails to furnish the information within 30 days of a request, his or her license would become inactive until the information is received.

Existing law exempts certain healing arts practitioners from liability for specified services rendered during a state of war, state of emergency, or local emergency.

This bill would also exempt respiratory care practitioners from liability for the provision of specified services rendered during a state of war, state of emergency, or local emergency.

(7)

(8) Existing law, the Pharmacy Law, the knowing violation of which is a crime, provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy in the Department of Consumer Affairs.

Existing law authorizes a pharmacy to furnish dangerous drugs only to specified persons or entities, and subjects certain pharmacies and persons who violate the provision to specified fines.

This bill would provide that any violation of this provision by any person or entity would subject the person to the fine.

Existing law requires a pharmacy or pharmacist who is in charge of or manages a pharmacy to notify the board within 30 days of termination of employment of the pharmacist-in-charge or acting as manager, and provides that a violation of this provision is grounds for disciplinary action.

This bill would instead provide that failure by a pharmacist-in-charge or a pharmacy to notify the board in writing that the pharmacist-in-charge has ceased to act as pharmacist-in-charge within 30 days constitutes grounds for disciplinary action, and would also provide that the operation of the pharmacy for more than 30 days without the supervision or management by a pharmacist-in-charge constitutes grounds for disciplinary action. The bill would revise the definition of a designated representative or designated representative-in-charge, and would define a pharmacist-in-charge.

Existing law makes a nonpharmacist owner of a pharmacy who commits acts that would subvert or tend to subvert the efforts of a

pharmacist-in-charge to comply with the Pharmacy Law guilty of a misdemeanor.

This bill would apply this provision to any pharmacy owner.

The bill would require the board, during a declared federal, state, or local emergency, to allow for the employment of a mobile pharmacy in impacted areas under specified conditions, and would authorize the board to allow the temporary use of a mobile pharmacy when a pharmacy is destroyed or damaged under specified conditions. The bill would authorize the board, if a pharmacy fails to provide documentation substantiating continuing education requirements as part of a board investigation or audit, to cancel an active pharmacy license and issue an inactive pharmacy license, and would allow a pharmacy to reobtain an active pharmacy license if it meets specified requirements.

Because this bill would impose new requirements and prohibitions under the Pharmacy Law, the knowing violation of which would be a crime, it would impose a state-mandated local program.

Existing law requires pharmacies to provide information regarding certain controlled substances prescriptions to the Department of Justice on a weekly basis.

This bill would also require a clinic to provide this information to the Department of Justice on a weekly basis.

(8)

(9) Existing law provides for the licensure and regulation of psychologists, *clinical* social workers, and marriage and family therapists by the Board of Behavioral Sciences. Existing law generally provides for a system of citations and fines that are applicable to healing arts licensees.

This bill would prohibit the board from publishing on the Internet final determinations of a citation and fine of \$1,500 or less for more than 5 years from the date of issuance of the citation.

Existing law authorizes the board to deny a license or registration or to suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct and existing law specifies that unprofessional conduct includes, but is not limited to, the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any specified substances or any combination thereof.

This bill would delete that provision specifying that unprofessional conduct includes the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any

specified substances or any combination thereof. The bill would specify that unprofessional conduct includes the failure to comply with telemedicine requirements as well as engaging in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination as specified.

Existing law requires applicants for a clinical social worker license to furnish evidence satisfactory to the board that he or she has, among other things, 2 year's of supervised postmaster's degree experience. Existing law requires this experience to meet various criteria including, but not limited to, at least 3,200 hours of postmaster's degree supervised experience providing clinical social work services, and of those hours, at least 1,700 hours gained under the supervision of a licensed clinical social worker, and the remaining hours under the supervision of a board-acceptable licensed mental health professional. Existing law also requires this experience to include at least one hour of direct supervisor contact, as defined, for a minimum of 104 weeks. Existing law provides various alternative criteria sufficient to satisfy the experience requirement.

This bill would revise the definition of one hour of direct supervisor contact and would delete those various alternative criteria.

~~(9)~~

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.*

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 128.5 of the Business and Professions*
- 2 *Code is amended to read:*
- 3 *128.5. (a) Notwithstanding any other provision of law, if at*
- 4 *the end of any fiscal year, an agency within the Department of*
- 5 *Consumer Affairs, except the agencies referred to in subdivision*
- 6 *(b), has unencumbered funds in an amount that equals or is more*
- 7 *than the agency's operating budget for the next two fiscal years,*
- 8 *the agency shall reduce license or other fees, whether the license*
- 9 *or other fees be fixed by statute or may be determined by the*

1 agency within limits fixed by statute, during the following fiscal
2 year in an amount that will reduce any surplus funds of the agency
3 to an amount less than the agency's operating budget for the next
4 two fiscal years.

5 (b) Notwithstanding any other provision of law, if at the end of
6 any fiscal year, the California Architects Board, the Board of
7 Behavioral-Science-Examiners *Sciences*, the Veterinary Medical
8 Board, the Court Reporters Board of California, the Medical Board
9 of California, the Board of Vocational Nursing and Psychiatric
10 Technicians, or the Bureau of Security and Investigative Services
11 has unencumbered funds in an amount that equals or is more than
12 the agency's operating budget for the next two fiscal years, the
13 agency shall reduce license or other fees, whether the license or
14 other fees be fixed by statute or may be determined by the agency
15 within limits fixed by statute, during the following fiscal year in
16 an amount that will reduce any surplus funds of the agency to an
17 amount less than the agency's operating budget for the next two
18 fiscal years.

19 *SEC. 2. Section 149 of the Business and Professions Code is*
20 *amended to read:*

21 149. (a) If, upon investigation, an agency designated in
22 subdivision (e) has probable cause to believe that a person is
23 advertising in a telephone directory with respect to the offering or
24 performance of services, without being properly licensed by or
25 registered with the agency to offer or perform those services, the
26 agency may issue a citation under Section 148 containing an order
27 of correction that requires the violator to do both of the following:

28 (1) Cease the unlawful advertising.

29 (2) Notify the telephone company furnishing services to the
30 violator to disconnect the telephone service furnished to any
31 telephone number contained in the unlawful advertising.

32 (b) This action is stayed if the person to whom a citation is
33 issued under subdivision (a) notifies the agency in writing that he
34 or she intends to contest the citation. The agency shall afford an
35 opportunity for a hearing, as specified in Section 125.9.

36 (c) If the person to whom a citation and order of correction is
37 issued under subdivision (a) fails to comply with the order of
38 correction after that order is final, the agency shall inform the
39 Public Utilities Commission of the violation and the Public Utilities
40 Commission shall require the telephone corporation furnishing

1 services to that person to disconnect the telephone service furnished
2 to any telephone number contained in the unlawful advertising.

3 (d) The good faith compliance by a telephone corporation with
4 an order of the Public Utilities Commission to terminate service
5 issued pursuant to this section shall constitute a complete defense
6 to any civil or criminal action brought against the telephone
7 corporation arising from the termination of service.

8 (e) Subdivision (a) shall apply to the following boards, bureaus,
9 committees, commissions, or programs:

- 10 (1) The Bureau of Barbering and Cosmetology.
- 11 (2) The Funeral Directors and Embalmers Program.
- 12 (3) The Veterinary Medical Board.
- 13 (4) The Hearing Aid Dispensers Advisory Commission.
- 14 (5) The Landscape Architects Technical Committee.
- 15 (6) The California Board of Podiatric Medicine.
- 16 (7) The Respiratory Care Board of California.
- 17 (8) The Bureau of Home Furnishings and Thermal Insulation.
- 18 (9) The Bureau of Security and Investigative Services.
- 19 (10) The Bureau of Electronic and Appliance Repair.
- 20 (11) The Bureau of Automotive Repair.
- 21 (12) The Tax Preparers Program.
- 22 (13) The California Architects Board.
- 23 (14) The Speech-Language Pathology and Audiology Board.
- 24 (15) The Board for Professional Engineers and Land Surveyors.
- 25 (16) The Board of Behavioral Sciences.
- 26 (17) The State Board for Geologists and Geophysicists.
- 27 (18) The Structural Pest Control Board.
- 28 (19) The Acupuncture Board.
- 29 (20) The Board of Psychology.
- 30 (21) The California Board of Accountancy.
- 31 (22) The Bureau of Naturopathic Medicine.
- 32 (23) *The Physical Therapy Board of California.*

33 ~~SECTION 1.~~

34 *SEC. 3.* Section 683 of the Business and Professions Code is
35 amended to read:

36 683. (a) A board shall report, within 10 working days, to the
37 State Department of Health Care Services the name and license
38 number of a person whose license has been revoked, suspended,
39 surrendered, made inactive by the licensee, or placed in another
40 category that prohibits the licensee from practicing his or her

profession. The purpose of the reporting requirement is to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.

(b) "Board," as used in this section, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, and the California Board of Occupational Therapy.

~~SEC. 2.~~

SEC. 4. Section 733 of the Business and Professions Code is amended to read:

733. (a) No licentiate shall obstruct a patient in obtaining a prescription drug or device that has been legally prescribed or ordered for that patient. A violation of this section constitutes unprofessional conduct by the licentiate and shall subject the licentiate to disciplinary or administrative action by his or her licensing agency.

(b) Notwithstanding any other provision of law, a licentiate shall dispense drugs and devices, as described in subdivision (a) of Section 4024, pursuant to a lawful order or prescription unless one of the following circumstances exists:

(1) Based solely on the licentiate's professional training and judgment, dispensing pursuant to the order or the prescription is contrary to law, or the licentiate determines that the prescribed drug or device would cause a harmful drug interaction or would otherwise adversely affect the patient's medical condition.

(2) The prescription drug or device is not in stock. If an order, other than an order described in Section 4019, or prescription cannot be dispensed because the drug or device is not in stock, the licentiate shall take one of the following actions:

(A) Immediately notify the patient and arrange for the drug or device to be delivered to the site or directly to the patient in a timely manner.

(B) Promptly transfer the prescription to another pharmacy known to stock the prescription drug or device that is near enough to the site from which the prescription or order is transferred, to ensure the patient has timely access to the drug or device.

(C) Return the prescription to the patient and refer the patient.

The licentiate shall make a reasonable effort to refer the patient to

1 a pharmacy that stocks the prescription drug or device that is near
2 enough to the referring site to ensure that the patient has timely
3 access to the drug or device.

4 (3) The licentiate refuses on ethical, moral, or religious grounds
5 to dispense a drug or device pursuant to an order or prescription.
6 A licentiate may decline to dispense a prescription drug or device
7 on this basis only if the licentiate has previously notified his or
8 her employer, in writing, of the drug or class of drugs to which he
9 or she objects, and the licentiate's employer can, without creating
10 undue hardship, provide a reasonable accommodation of the
11 licentiate's objection. The licentiate's employer shall establish
12 protocols that ensure that the patient has timely access to the
13 prescribed drug or device despite the licentiate's refusal to dispense
14 the prescription or order. For purposes of this section, "reasonable
15 accommodation" and "undue hardship" shall have the same
16 meaning as applied to those terms pursuant to subdivision (l) of
17 Section 12940 of the Government Code.

18 (c) For the purposes of this section, "prescription drug or device"
19 has the same meaning as the definition in Section 4022.

20 (d) The provisions of this section shall apply to the drug therapy
21 described in Section 4052.3.

22 (e) This section imposes no duty on a licentiate to dispense a
23 drug or device pursuant to a prescription or order without payment
24 for the drug or device, including payment directly by the patient
25 or through a third-party payer accepted by the licentiate or payment
26 of any required copayment by the patient.

27 (f) The notice to consumers required by Section 4122 shall
28 include a statement that describes patients' rights relative to the
29 requirements of this section.

30 ~~SEC. 3.~~

31 *SEC. 5.* Section 800 of the Business and Professions Code is
32 amended to read:

33 800. (a) The Medical Board of California, the Board of
34 Psychology, the Dental Board of California, the Osteopathic
35 Medical Board of California, the State Board of Chiropractic
36 Examiners, the Board of Registered Nursing, the Board of
37 Vocational Nursing and Psychiatric Technicians, the State Board
38 of Optometry, the Veterinary Medical Board, the Board of
39 Behavioral Sciences, the Physical Therapy Board of California,
40 the California State Board of Pharmacy, the Speech-Language

1 Pathology and Audiology Board, the California Board of
2 Occupational Therapy, and the Acupuncture Board shall each
3 separately create and maintain a central file of the names of all
4 persons who hold a license, certificate, or similar authority from
5 that board. Each central file shall be created and maintained to
6 provide an individual historical record for each licensee with
7 respect to the following information:

8 (1) Any conviction of a crime in this or any other state that
9 constitutes unprofessional conduct pursuant to the reporting
10 requirements of Section 803.

11 (2) Any judgment or settlement requiring the licensee or his or
12 her insurer to pay any amount of damages in excess of three
13 thousand dollars (\$3,000) for any claim that injury or death was
14 proximately caused by the licensee's negligence, error or omission
15 in practice, or by rendering unauthorized professional services,
16 pursuant to the reporting requirements of Section 801 or 802.

17 (3) Any public complaints for which provision is made pursuant
18 to subdivision (b).

19 (4) Disciplinary information reported pursuant to Section 805.

20 (b) Each board shall prescribe and promulgate forms on which
21 members of the public and other licensees or certificate holders
22 may file written complaints to the board alleging any act of
23 misconduct in, or connected with, the performance of professional
24 services by the licensee.

25 If a board, or division thereof, a committee, or a panel has failed
26 to act upon a complaint or report within five years, or has found
27 that the complaint or report is without merit, the central file shall
28 be purged of information relating to the complaint or report.

29 Notwithstanding this subdivision, the Board of Psychology, the
30 Board of Behavioral Sciences, and the Respiratory Care Board of
31 California shall maintain complaints or reports as long as each
32 board deems necessary.

33 (c) The contents of any central file that are not public records
34 under any other provision of law shall be confidential except that
35 the licensee involved, or his or her counsel or representative, shall
36 have the right to inspect and have copies made of his or her
37 complete file except for the provision that may disclose the identity
38 of an information source. For the purposes of this section, a board
39 may protect an information source by providing a copy of the
40 material with only those deletions necessary to protect the identity

1 of the source or by providing a comprehensive summary of the
2 substance of the material. Whichever method is used, the board
3 shall ensure that full disclosure is made to the subject of any
4 personal information that could reasonably in any way reflect or
5 convey anything detrimental, disparaging, or threatening to a
6 licensee's reputation, rights, benefits, privileges, or qualifications,
7 or be used by a board to make a determination that would affect
8 a licensee's rights, benefits, privileges, or qualifications. The
9 information required to be disclosed pursuant to Section 803.1
10 shall not be considered among the contents of a central file for the
11 purposes of this subdivision.

12 The licensee may, but is not required to, submit any additional
13 exculpatory or explanatory statement or other information that the
14 board shall include in the central file.

15 Each board may permit any law enforcement or regulatory
16 agency when required for an investigation of unlawful activity or
17 for licensing, certification, or regulatory purposes to inspect and
18 have copies made of that licensee's file, unless the disclosure is
19 otherwise prohibited by law.

20 These disclosures shall effect no change in the confidential status
21 of these records.

22 *SEC. 6. Section 801 of the Business and Professions Code is*
23 *amended to read:*

24 801. (a) Except as provided in Section 801.01 and subdivisions
25 (b), (c), and (d) of this section, every insurer providing professional
26 liability insurance to a person who holds a license, certificate, or
27 similar authority from or under any agency mentioned in
28 subdivision (a) of Section 800 shall send a complete report to that
29 agency as to any settlement or arbitration award over three
30 thousand dollars (\$3,000) of a claim or action for damages for
31 death or personal injury caused by that person's negligence, error,
32 or omission in practice, or by his or her rendering of unauthorized
33 professional services. The report shall be sent within 30 days after
34 the written settlement agreement has been reduced to writing and
35 signed by all parties thereto or within 30 days after service of the
36 arbitration award on the parties.

37 (b) Every insurer providing professional liability insurance to
38 a person licensed pursuant to Chapter 13 (commencing with
39 Section 4980) or Chapter 14 (commencing with Section 4990)
40 shall send a complete report to the Board of Behavioral Science

1 ~~Examiners~~ *Sciences* as to any settlement or arbitration award over
2 ten thousand dollars (\$10,000) of a claim or action for damages
3 for death or personal injury caused by that person's negligence,
4 error, or omission in practice, or by his or her rendering of
5 unauthorized professional services. The report shall be sent within
6 30 days after the written settlement agreement has been reduced
7 to writing and signed by all parties thereto or within 30 days after
8 service of the arbitration award on the parties.

9 (c) Every insurer providing professional liability insurance to
10 a dentist licensed pursuant to Chapter 4 (commencing with Section
11 1600) shall send a complete report to the Dental Board of
12 California as to any settlement or arbitration award over ten
13 thousand dollars (\$10,000) of a claim or action for damages for
14 death or personal injury caused by that person's negligence, error,
15 or omission in practice, or rendering of unauthorized professional
16 services. The report shall be sent within 30 days after the written
17 settlement agreement has been reduced to writing and signed by
18 all parties thereto or within 30 days after service of the arbitration
19 award on the parties.

20 (d) Every insurer providing liability insurance to a veterinarian
21 licensed pursuant to Chapter 11 (commencing with Section 4800)
22 shall send a complete report to the Veterinary Medical Board of
23 any settlement or arbitration award over ten thousand dollars
24 (\$10,000) of a claim or action for damages for death or injury
25 caused by that person's negligence, error, or omission in practice,
26 or rendering of unauthorized professional service. The report shall
27 be sent within 30 days after the written settlement agreement has
28 been reduced to writing and signed by all parties thereto or within
29 30 days after service of the arbitration award on the parties.

30 (e) The insurer shall notify the claimant, or if the claimant is
31 represented by counsel, the insurer shall notify the claimant's
32 attorney, that the report required by subdivision (a), (b), or (c) has
33 been sent to the agency. If the attorney has not received this notice
34 within 45 days after the settlement was reduced to writing and
35 signed by all of the parties, the arbitration award was served on
36 the parties, or the date of entry of the civil judgment, the attorney
37 shall make the report to the agency.

38 (f) Notwithstanding any other provision of law, no insurer shall
39 enter into a settlement without the written consent of the insured,
40 except that this prohibition shall not void any settlement entered

1 into without that written consent. The requirement of written
2 consent shall only be waived by both the insured and the insurer.
3 This section shall only apply to a settlement on a policy of
4 insurance executed or renewed on or after January 1, 1971.

5 *SEC. 7. Section 803 of the Business and Professions Code is*
6 *amended to read:*

7 803. (a) Except as provided in subdivision (b), within 10 days
8 after a judgment by a court of this state that a person who holds a
9 license, certificate, or other similar authority from the Board of
10 Behavioral—~~Science~~—~~Examiners~~ *Sciences* or from an agency
11 mentioned in subdivision (a) of Section 800 (except a person
12 licensed pursuant to Chapter 3 (commencing with Section 1200))
13 has committed a crime, or is liable for any death or personal injury
14 resulting in a judgment for an amount in excess of thirty thousand
15 dollars (\$30,000) caused by his or her negligence, error or omission
16 in practice, or his or her rendering unauthorized professional
17 services, the clerk of the court that rendered the judgment shall
18 report that fact to the agency that issued the license, certificate, or
19 other similar authority.

20 (b) For purposes of a physician and surgeon, osteopathic
21 physician and surgeon, or doctor of podiatric medicine, who is
22 liable for any death or personal injury resulting in a judgment of
23 any amount caused by his or her negligence, error or omission in
24 practice, or his or her rendering unauthorized professional services,
25 the clerk of the court that rendered the judgment shall report that
26 fact to the agency that issued the license.

27 ~~SEC. 4.~~

28 *SEC. 8. Section 2089.5 of the Business and Professions Code*
29 *is amended to read:*

30 2089.5. (a) Clinical instruction in the subjects listed in
31 subdivision (b) of Section 2089 shall meet the requirements of this
32 section and shall be considered adequate if the requirements of
33 subdivision (a) of Section 2089 and the requirements of this section
34 are satisfied.

35 (b) Instruction in the clinical courses shall total a minimum of
36 72 weeks in length.

37 (c) Instruction in the core clinical courses of surgery, medicine,
38 family medicine, pediatrics, obstetrics and gynecology, and
39 psychiatry shall total a minimum of 40 weeks in length with a
40 minimum of eight weeks instruction in surgery, eight weeks in

1 medicine, six weeks in pediatrics, six weeks in obstetrics and
2 gynecology, a minimum of four weeks in family medicine, and
3 four weeks in psychiatry.

4 (d) Of the instruction required by subdivision (b), including all
5 of the instruction required by subdivision (c), 54 weeks shall be
6 performed in a hospital that sponsors the instruction and shall meet
7 one of the following:

8 (1) Is a formal part of the medical school or school of
9 osteopathic medicine.

10 (2) Has a residency program, approved by the Accreditation
11 Council for Graduate Medical Education (ACGME) or the Royal
12 College of Physicians and Surgeons of Canada (RCPSC), in family
13 practice or in the clinical area of the instruction for which credit
14 is being sought.

15 (3) Is formally affiliated with an approved medical school or
16 school of osteopathic medicine located in the United States or
17 Canada. If the affiliation is limited in nature, credit shall be given
18 only in the subject areas covered by the affiliation agreement.

19 (4) Is formally affiliated with a medical school or a school of
20 osteopathic medicine located outside the United States or Canada.

21 (e) If the institution, specified in subdivision (d), is formally
22 affiliated with a medical school or a school of osteopathic medicine
23 located outside the United States or Canada, it shall meet the
24 following:

25 (1) The formal affiliation shall be documented by a written
26 contract detailing the relationship between the medical school, or
27 a school of osteopathic medicine, and hospital and the
28 responsibilities of each.

29 (2) The school and hospital shall provide to the board a
30 description of the clinical program. The description shall be in
31 sufficient detail to enable the board to determine whether or not
32 the program provides students an adequate medical education. The
33 board shall approve the program if it determines that the program
34 provides an adequate medical education. If the board does not
35 approve the program, it shall provide its reasons for disapproval
36 to the school and hospital in writing specifying its findings about
37 each aspect of the program that it considers to be deficient and the
38 changes required to obtain approval.

39 (3) The hospital, if located in the United States, shall be
40 accredited by the Joint Commission on Accreditation of Hospitals,

1 and if located in another country, shall be accredited in accordance
2 with the law of that country.

3 (4) The clinical instruction shall be supervised by a full-time
4 director of medical education, and the head of the department for
5 each core clinical course shall hold a full-time faculty appointment
6 of the medical school or school of osteopathic medicine and shall
7 be board certified or eligible, or have an equivalent credential in
8 that specialty area appropriate to the country in which the hospital
9 is located.

10 (5) The clinical instruction shall be conducted pursuant to a
11 written program of instruction provided by the school.

12 (6) The school shall supervise the implementation of the
13 program on a regular basis, documenting the level and extent of
14 its supervision.

15 (7) The hospital-based faculty shall evaluate each student on a
16 regular basis and shall document the completion of each aspect of
17 the program for each student.

18 (8) The hospital shall ensure a minimum daily census adequate
19 to meet the instructional needs of the number of students enrolled
20 in each course area of clinical instruction, but not less than 15
21 patients in each course area of clinical instruction.

22 (9) The board, in reviewing the application of a foreign medical
23 graduate, may require the applicant to submit a description of the
24 clinical program, if the board has not previously approved the
25 program, and may require the applicant to submit documentation
26 to demonstrate that the applicant's clinical training met the
27 requirements of this subdivision.

28 (10) The medical school or school of osteopathic medicine shall
29 bear the reasonable cost of any site inspection by the board or its
30 agents necessary to determine whether the clinical program offered
31 is in compliance with this subdivision.

32 ~~SEC. 5.~~

33 *SEC. 9.* Section 2096 of the Business and Professions Code is
34 amended to read:

35 2096. In addition to other requirements of this chapter, before
36 a physician's and surgeon's license may be issued, each applicant,
37 including an applicant applying pursuant to Article 5 (commencing
38 with Section 2100), shall show by evidence satisfactory to the
39 board that he or she has satisfactorily completed at least one year
40 of postgraduate training, which includes at least four months of

1 general medicine, in a postgraduate training program approved by
2 the Accreditation Council for Graduate Medical Education
3 (ACGME) or Royal College of Physicians and Surgeons of Canada
4 (RCPSC).

5 The amendments made to this section at the 1987 portion of the
6 1987–88 session of the Legislature shall not apply to applicants
7 who completed their one year of postgraduate training on or before
8 July 1, 1990.

9 ~~SEC. 6.~~

10 *SEC. 10.* Section 2102 of the Business and Professions Code
11 is amended to read:

12 2102. Any applicant whose professional instruction was
13 acquired in a country other than the United States or Canada shall
14 provide evidence satisfactory to the board of compliance with the
15 following requirements to be issued a physician's and surgeon's
16 certificate:

17 (a) Completion in a medical school or schools of a resident
18 course of professional instruction equivalent to that required by
19 Section 2089 and issuance to the applicant of a document
20 acceptable to the board that shows final and successful completion
21 of the course. However, nothing in this section shall be construed
22 to require the board to evaluate for equivalency any coursework
23 obtained at a medical school disapproved by the board pursuant
24 to this section.

25 (b) Certification by the Educational Commission for Foreign
26 Medical Graduates, or its equivalent, as determined by the board.
27 This subdivision shall apply to all applicants who are subject to
28 this section and who have not taken and passed the written
29 examination specified in subdivision (d) prior to June 1, 1986.

30 (c) Satisfactory completion of the postgraduate training required
31 under Section 2096. An applicant shall be required to have
32 substantially completed the professional instruction required in
33 subdivision (a) and shall be required to make application to the
34 board and have passed steps 1 and 2 of the written examination
35 relating to biomedical and clinical sciences prior to commencing
36 any postgraduate training in this state. In its discretion, the board
37 may authorize an applicant who is deficient in any education or
38 clinical instruction required by Sections 2089 and 2089.5 to make
39 up any deficiencies as a part of his or her postgraduate training

1 program, but that remedial training shall be in addition to the
2 postgraduate training required for licensure.

3 (d) Pass the written examination as provided under Article 9
4 (commencing with Section 2170). An applicant shall be required
5 to meet the requirements specified in subdivision (b) prior to being
6 admitted to the written examination required by this subdivision.

7 Nothing in this section prohibits the board from disapproving
8 any foreign medical school or from denying an application if, in
9 the opinion of the board, the professional instruction provided by
10 the medical school or the instruction received by the applicant is
11 not equivalent to that required in Article 4 (commencing with
12 Section 2080).

13 ~~SEC. 7.~~

14 *SEC. 11.* Section 2107 of the Business and Professions Code
15 is amended to read:

16 2107. (a) The Legislature intends that the board shall have the
17 authority to substitute postgraduate education and training to
18 remedy deficiencies in an applicant's medical school education
19 and training. The Legislature further intends that applicants who
20 substantially completed their clinical training shall be granted that
21 substitute credit if their postgraduate education took place in an
22 accredited program.

23 (b) To meet the requirements for licensure set forth in Sections
24 2089 and 2089.5, the board may require an applicant under this
25 article to successfully complete additional education and training.
26 In determining the content and duration of the required additional
27 education and training, the board shall consider the applicant's
28 medical education and performance on standardized national
29 examinations, and may substitute approved postgraduate training
30 in lieu of specified undergraduate requirements. Postgraduate
31 training substituted for undergraduate training shall be in addition
32 to the postgraduate training required by Sections 2102 and 2103.

33 ~~SEC. 8.~~

34 *SEC. 12.* Section 2135 of the Business and Professions Code
35 is amended to read:

36 2135. The board shall issue a physician and surgeon's
37 certificate to an applicant who meets all of the following
38 requirements:

1 (a) The applicant holds an unlimited license as a physician and
2 surgeon in another state or states, or in a Canadian province or
3 Canadian provinces, which was issued upon:

4 (1) Successful completion of a resident course of professional
5 instruction leading to a degree of medical doctor equivalent to that
6 specified in Section 2089. However, nothing in this section shall
7 be construed to require the board to evaluate for equivalency any
8 coursework obtained at a medical school disapproved by the board
9 pursuant to Article 4 (commencing with Section 2080).

10 (2) Taking and passing a written examination that is recognized
11 by the division to be equivalent in content to that administered in
12 California.

13 (b) The applicant has held an unrestricted license to practice
14 medicine, in a state or states, in a Canadian province or Canadian
15 provinces, or as a member of the active military, United States
16 Public Health Services, or other federal program, for a period of
17 at least four years. Any time spent by the applicant in an approved
18 postgraduate training program or clinical fellowship acceptable to
19 the board shall not be included in the calculation of this four-year
20 period.

21 (c) The board determines that no disciplinary action has been
22 taken against the applicant by any medical licensing authority and
23 that the applicant has not been the subject of adverse judgments
24 or settlements resulting from the practice of medicine that the
25 division determines constitutes evidence of a pattern of negligence
26 or incompetence.

27 (d) The applicant (1) has satisfactorily completed at least one
28 year of approved postgraduate training and is certified by a
29 specialty board approved by the American Board of Medical
30 Specialties or approved by the division pursuant to subdivision (h)
31 of Section 651; (2) has satisfactorily completed at least two years
32 of approved postgraduate training; or (3) has satisfactorily
33 completed at least one year of approved postgraduate training and
34 takes and passes the clinical competency written examination.

35 (e) The applicant has not committed any acts or crimes
36 constituting grounds for denial of a certificate under Division 1.5
37 (commencing with Section 475) or Article 12 (commencing with
38 Section 2220).

39 (f) Any application received from an applicant who has held an
40 unrestricted license to practice medicine, in a state or states, or

1 Canadian province or Canadian provinces, or as a member of the
2 active military, United States Public Health Services, or other
3 federal program for four or more years shall be reviewed and
4 processed pursuant to this section. Any time spent by the applicant
5 in an approved postgraduate training program or clinical fellowship
6 acceptable to the board shall not be included in the calculation of
7 this four-year period. This subdivision does not apply to
8 applications that may be reviewed and processed pursuant to
9 Section 2151.

10 ~~SEC. 9.~~

11 *SEC. 13.* Section 2172 of the Business and Professions Code
12 is repealed.

13 ~~SEC. 10.~~

14 *SEC. 14.* Section 2173 of the Business and Professions Code
15 is repealed.

16 ~~SEC. 11.~~

17 *SEC. 15.* Section 2174 of the Business and Professions Code
18 is repealed.

19 ~~SEC. 12.~~

20 *SEC. 16.* Section 2175 of the Business and Professions Code
21 is amended to read:

22 2175. State examination records shall be kept on file by the
23 board until June 1, 2069. Examinees shall be known and designated
24 by number only, and the name attached to the number shall be kept
25 secret until the examinee is sent notification of the results of the
26 examinations.

27 ~~SEC. 13.~~

28 *SEC. 17.* Section 2307 of the Business and Professions Code
29 is amended to read:

30 2307. (a) A person whose certificate has been surrendered
31 while under investigation or while charges are pending or whose
32 certificate has been revoked or suspended or placed on probation,
33 may petition the board for reinstatement or modification of penalty,
34 including modification or termination of probation.

35 (b) The person may file the petition after a period of not less
36 than the following minimum periods have elapsed from the
37 effective date of the surrender of the certificate or the decision
38 ordering that disciplinary action:

39 (1) At least three years for reinstatement of a license surrendered
40 or revoked for unprofessional conduct, except that the board may,

1 for good cause shown, specify in a revocation order that a petition
2 for reinstatement may be filed after two years.

3 (2) At least two years for early termination of probation of three
4 years or more.

5 (3) At least one year for modification of a condition, or
6 reinstatement of a license surrendered or revoked for mental or
7 physical illness, or termination of probation of less than three years.

8 (c) The petition shall state any facts as may be required by the
9 board. The petition shall be accompanied by at least two verified
10 recommendations from physicians and surgeons licensed in any
11 state who have personal knowledge of the activities of the petitioner
12 since the disciplinary penalty was imposed.

13 (d) The petition may be heard by a panel of the board. The board
14 may assign the petition to an administrative law judge designated
15 in Section 11371 of the Government Code. After a hearing on the
16 petition, the administrative law judge shall provide a proposed
17 decision to the board or the California Board of Podiatric Medicine,
18 as applicable, which shall be acted upon in accordance with Section
19 2335.

20 (e) The panel of the board or the administrative law judge
21 hearing the petition may consider all activities of the petitioner
22 since the disciplinary action was taken, the offense for which the
23 petitioner was disciplined, the petitioner's activities during the
24 time the certificate was in good standing, and the petitioner's
25 rehabilitative efforts, general reputation for truth, and professional
26 ability. The hearing may be continued from time to time as the
27 administrative law judge designated in Section 11371 of the
28 Government Code finds necessary.

29 (f) The administrative law judge designated in Section 11371
30 of the Government Code reinstating a certificate or modifying a
31 penalty may recommend the imposition of any terms and conditions
32 deemed necessary.

33 (g) No petition shall be considered while the petitioner is under
34 sentence for any criminal offense, including any period during
35 which the petitioner is on court-imposed probation or parole. No
36 petition shall be considered while there is an accusation or petition
37 to revoke probation pending against the person. The board may
38 deny without a hearing or argument any petition filed pursuant to
39 this section within a period of two years from the effective date
40 of the prior decision following a hearing under this section.

(h) This section is applicable to and may be carried out with regard to licensees of the California Board of Podiatric Medicine. In lieu of two verified recommendations from physicians and surgeons, the petition shall be accompanied by at least two verified recommendations from ~~podiatrists~~ *doctors of podiatric medicine* licensed in any state who have personal knowledge of the activities of the petitioner since the date the disciplinary penalty was imposed.

(i) Nothing in this section shall be deemed to alter Sections 822 and 823.

~~SEC. 14.~~

SEC. 18. Section 2335 of the Business and Professions Code is amended to read:

2335. (a) All proposed decisions and interim orders of the Medical Quality Hearing Panel designated in Section 11371 of the Government Code shall be transmitted to the executive director of the board, or the executive director of the California Board of Podiatric Medicine as to the licensees of that board, within 48 hours of filing.

(b) All interim orders shall be final when filed.

(c) A proposed decision shall be acted upon by the board or by any panel appointed pursuant to Section 2008 or by the California Board of Podiatric Medicine, as the case may be, in accordance with Section 11517 of the Government Code, except that all of the following shall apply to proceedings against licensees under this chapter:

(1) When considering a proposed decision, the board or panel and the California Board of Podiatric Medicine shall give great weight to the findings of fact of the administrative law judge, except to the extent those findings of fact are controverted by new evidence.

(2) The board's staff or the staff of the California Board of Podiatric Medicine shall poll the members of the board or panel or of the California Board of Podiatric Medicine by written mail ballot concerning the proposed decision. The mail ballot shall be sent within 10 calendar days of receipt of the proposed decision, and shall poll each member on whether the member votes to approve the decision, to approve the decision with an altered penalty, to refer the case back to the administrative law judge for the taking of additional evidence, to defer final decision pending

1 discussion of the case by the panel or board as a whole, or to
2 nonadopt the decision. No party to the proceeding, including
3 employees of the agency that filed the accusation, and no person
4 who has a direct or indirect interest in the outcome of the
5 proceeding or who presided at a previous stage of the decision,
6 may communicate directly or indirectly, upon the merits of a
7 contested matter while the proceeding is pending, with any member
8 of the panel or board, without notice and opportunity for all parties
9 to participate in the communication. The votes of a majority of the
10 board or of the panel, and a majority of the California Board of
11 Podiatric Medicine, are required to approve the decision with an
12 altered penalty, to refer the case back to the administrative law
13 judge for the taking of further evidence, or to nonadopt the
14 decision. The votes of two members of the panel or board are
15 required to defer final decision pending discussion of the case by
16 the panel or board as a whole. If there is a vote by the specified
17 number to defer final decision pending discussion of the case by
18 the panel or board as a whole, provision shall be made for that
19 discussion before the 100-day period specified in paragraph (3)
20 expires, but in no event shall that 100-day period be extended.

21 (3) If a majority of the board or of the panel, or a majority of
22 the California Board of Podiatric Medicine vote to do so, the board
23 or the panel or the California Board of Podiatric Medicine shall
24 issue an order of nonadoption of a proposed decision within 100
25 calendar days of the date it is received by the board. If the board
26 or the panel or the California Board of Podiatric Medicine does
27 not refer the case back to the administrative law judge for the
28 taking of additional evidence or issue an order of nonadoption
29 within 100 days, the decision shall be final and subject to review
30 under Section 2337. Members of the board or of any panel or of
31 the California Board of Podiatric Medicine who review a proposed
32 decision or other matter and vote by mail as provided in paragraph
33 (2) shall return their votes by mail to the board within 30 days
34 from receipt of the proposed decision or other matter.

35 (4) The board or the panel or the California Board of Podiatric
36 Medicine shall afford the parties the opportunity to present oral
37 argument before deciding a case after nonadoption of the
38 administrative law judge's decision.

39 (5) A vote of a majority of the board or of a panel, or a majority
40 of the California Board of Podiatric Medicine, are required to

1 increase the penalty from that contained in the proposed
2 administrative law judge's decision. No member of the board or
3 panel or of the California Board of Podiatric Medicine may vote
4 to increase the penalty except after reading the entire record and
5 personally hearing any additional oral argument and evidence
6 presented to the panel or board.

7 ~~SEC. 15.~~

8 *SEC. 19.* Section 2486 of the Business and Professions Code
9 is amended to read:

10 2486. The ~~Medical board~~ *Board* of California shall issue, upon
11 the recommendation of the board, a certificate to practice podiatric
12 medicine if the applicant has submitted directly to the board from
13 the credentialing organizations verification that he or she meets
14 all of the following requirements:

15 (a) The applicant has graduated from an approved school or
16 college of podiatric medicine and meets the requirements of Section
17 2483.

18 (b) The applicant, within the past 10 years, has passed parts I,
19 II, and III of the examination administered by the National Board
20 of Podiatric Medical Examiners of the United States or has passed
21 a written examination that is recognized by the board to be the
22 equivalent in content to the examination administered by the
23 National Board of Podiatric Medical Examiners of the United
24 States.

25 (c) The applicant has satisfactorily completed the postgraduate
26 training required by Section 2484.

27 (d) The applicant has passed within the past 10 years any oral
28 and practical examination that may be required of all applicants
29 by the board to ascertain clinical competence.

30 (e) The applicant has committed no acts or crimes constituting
31 grounds for denial of a certificate under Division 1.5 (commencing
32 with Section 475).

33 (f) The board determines that no disciplinary action has been
34 taken against the applicant by any podiatric licensing authority
35 and that the applicant has not been the subject of adverse judgments
36 or settlements resulting from the practice of podiatric medicine
37 that the board determines constitutes evidence of a pattern of
38 negligence or incompetence.

1 (g) A disciplinary databank report regarding the applicant is
2 received by the board from the Federation of Podiatric Medical
3 Boards.

4 ~~SEC. 16.~~

5 *SEC. 20.* Section 2488 of the Business and Professions Code
6 is amended to read:

7 2488. Notwithstanding any other provision of law, the ~~board~~
8 *Medical Board of California* shall issue, upon the recommendation
9 of the board, a certificate to practice podiatric medicine by
10 credentialing if the applicant has submitted directly to the board
11 from the credentialing organizations verification that he or she is
12 licensed as a doctor of podiatric medicine in any other state and
13 meets all of the following requirements:

14 (a) The applicant has graduated from an approved school or
15 college of podiatric medicine.

16 (b) The applicant, within the past 10 years, has passed either
17 part III of the examination administered by the National Board of
18 Podiatric Medical Examiners of the United States or a written
19 examination that is recognized by the board to be the equivalent
20 in content to the examination administered by the National Board
21 of Podiatric Medical Examiners of the United States.

22 (c) The applicant has satisfactorily completed a postgraduate
23 training program approved by the Council on Podiatric Medical
24 Education.

25 (d) The applicant, within the past 10 years, has passed any oral
26 and practical examination that may be required of all applicants
27 by the board to ascertain clinical competence.

28 (e) The applicant has committed no acts or crimes constituting
29 grounds for denial of a certificate under Division 1.5 (commencing
30 with Section 475).

31 (f) The board determines that no disciplinary action has been
32 taken against the applicant by any podiatric licensing authority
33 and that the applicant has not been the subject of adverse judgments
34 or settlements resulting from the practice of podiatric medicine
35 that the board determines constitutes evidence of a pattern of
36 negligence or incompetence.

37 (g) A disciplinary databank report regarding the applicant from
38 the Federation of Podiatric Medical Boards.

1 ~~SEC. 17.~~

2 *SEC. 21.* Section 2570.5 of the Business and Professions Code
3 is amended to read:

4 2570.5. (a) A limited permit may be granted to any person
5 who has completed the education and experience requirements of
6 this chapter.

7 (b) A person who meets the qualifications to be admitted to the
8 examination for licensure or certification under this chapter and
9 is waiting to take the examination or awaiting the announcement
10 of the results of the examination, according to the application
11 requirements for a limited permit, may practice as an occupational
12 therapist or as an occupational therapy assistant under the direction
13 and appropriate supervision of an occupational therapist duly
14 licensed under this chapter. If that person fails to pass the
15 examination during the initial eligibility period, all privileges under
16 this section shall automatically cease upon due notice to the
17 applicant of that failure and may not be renewed.

18 (c) A limited permit shall be subject to other requirements set
19 forth in rules adopted by the board.

20 *SEC. 22.* Section 2570.6 of the Business and Professions Code
21 is amended to read:

22 2570.6. An applicant applying for a license as an occupational
23 therapist or certification as an occupational therapy assistant shall
24 file with the board a written application provided by the board,
25 showing to the satisfaction of the board that he or she meets all of
26 the following requirements:

27 (a) That the applicant is in good standing and has not committed
28 acts or crimes constituting grounds for denial of a license under
29 Section 480.

30 (b) (1) That the applicant has successfully completed the
31 academic requirements of an educational program for occupational
32 therapists or occupational therapy assistants that is approved by
33 the board and accredited by the American Occupational Therapy
34 Association's Accreditation Council for Occupational Therapy
35 Education (ACOTE), *or accredited or approved by the American*
36 *Occupational Therapy Association's (AOTA) predecessor*
37 *organization, or approved by AOTA's Career Mobility Program.*

38 (2) The curriculum of an ~~education~~ educational program for
39 occupational therapists shall contain the content ~~specifically~~
40 required ~~in~~ by the ACOTE accreditation standards, *or as approved*

1 *by AOTA's predecessor organization, or as approved by AOTA's*
2 *Career Mobility Program, including all of the following subjects:*

3 (A) Biological, behavioral, and health sciences.

4 (B) Structure and function of the human body, including
5 anatomy, kinesiology, physiology, and the neurosciences.

6 (C) Human development throughout the life span.

7 (D) Human behavior in the context of sociocultural systems.

8 (E) Etiology, clinical course, management, and prognosis of
9 disease processes and traumatic injuries, and the effects of those
10 conditions on human functioning.

11 (F) Occupational therapy theory, practice, and ~~process that shall~~
12 ~~include the following:~~ *processes.*

13 ~~(i) Human performance, that shall include occupational~~
14 ~~performance throughout the life cycle, human interaction, roles,~~
15 ~~values, and the influences of the nonhuman environment.~~

16 ~~(ii) Activity processes that shall include the following:~~

17 ~~(I) Theories underlying the use of purposeful activity and the~~
18 ~~meaning and dynamics of activity.~~

19 ~~(II) Performance of selected life tasks and activities.~~

20 ~~(III) Analysis, adaptation, and application of purposeful activity~~
21 ~~as therapeutic intervention.~~

22 ~~(IV) Use of self, dyadic, and group interaction.~~

23 ~~(iii) Theoretical approaches, including those related to~~
24 ~~purposeful activity, human performance, and adaptation.~~

25 ~~(iv) Application of occupational therapy theory to practice, that~~
26 ~~shall include the following:~~

27 ~~(I) Assessment and interpretation, observation, interviews,~~
28 ~~history, and standardized and nonstandardized tests.~~

29 ~~(II) Directing, planning, and implementation, that shall include:~~
30 ~~therapeutic intervention related to daily living skills and~~
31 ~~occupational components; therapeutic adaptation, including~~
32 ~~methods of accomplishing daily life tasks, environmental~~
33 ~~adjustments, orthotics, and assistive devices and equipment; health~~
34 ~~maintenance, including energy conservation, joint protection, body~~
35 ~~mechanics, and positioning; and prevention programs to foster~~
36 ~~age-appropriate recommendations to maximize treatment gains.~~

37 ~~(III) Program termination including reevaluation, determination~~
38 ~~of discharge, summary of occupational therapy outcome, and~~
39 ~~appropriate recommendations to maximize treatment gains.~~

40 ~~(IV) Documentation.~~

- 1 ~~(v) Development and implementation of quality assurance.~~
2 ~~(vi) Management of occupational therapy service, that shall~~
3 ~~include:~~
4 ~~(I) Planning services for client groups.~~
5 ~~(II) Personnel management, including occupational therapy~~
6 ~~assistants, aides, volunteers, and level I students.~~
7 ~~(III) Departmental operations, including budgeting, scheduling,~~
8 ~~recordkeeping, safety, and maintenance of supplies and equipment.~~
9 (3) The curriculum of an ~~education~~ *educational* program for
10 occupational therapy assistants shall contain the content specifically
11 required ~~in by~~ the ACOTE accreditation standards, *or as approved*
12 ~~or accredited by AOTA's predecessor organization~~, including all
13 of the following subjects:
14 (A) Biological, behavioral, and health sciences.
15 (B) Structure and function of the normal human body.
16 (C) Human development.
17 (D) Conditions commonly referred to occupational therapists.
18 (E) Occupational therapy principles and skills, ~~that shall include~~
19 ~~the following:~~
20 ~~(i) Human performance, including life tasks and roles as related~~
21 ~~to the developmental process from birth to death.~~
22 ~~(ii) Activity processes and skills, that shall include the following:~~
23 ~~(I) Performance of selected life tasks and activities.~~
24 ~~(II) Analysis and adaptation of activities.~~
25 ~~(III) Instruction of individuals and groups in selected life tasks~~
26 ~~and activities.~~
27 ~~(iii) Concepts related to occupational therapy practice, that shall~~
28 ~~include the following:~~
29 ~~(I) The importance of human occupation as a health determinant.~~
30 ~~(II) The use of self, interpersonal, and communication skills.~~
31 ~~(iv) Use of occupational therapy concepts and skills, that shall~~
32 ~~include the following:~~
33 ~~(I) Data collection, that shall include structured observation and~~
34 ~~interviews, history, and structured tests.~~
35 ~~(II) Participation in planning and implementation, that shall~~
36 ~~include: therapeutic intervention related to daily living skills and~~
37 ~~occupational components; therapeutic adaptation, including~~
38 ~~methods of accomplishing daily life tasks, environmental~~
39 ~~adjustments, orthotics, and assistive devices and equipment; health~~
40 ~~maintenance, including mental health techniques, energy~~

1 conservation, joint protection, body mechanics, and positioning;
2 and prevention programs to foster age-appropriate balance of
3 self-care and work.

4 ~~(III) Program termination, including assisting in reevaluation,~~
5 ~~summary of occupational therapy outcome, and appropriate~~
6 ~~recommendations to maximize treatment gains.~~

7 ~~(IV) Documentation.~~

8 *(c) (1) For an applicant who is a graduate of an occupational*
9 *therapy or occupational therapy assistant educational program*
10 *who is unable to provide evidence of having met the requirements*
11 *of paragraph (2) or (3) of subdivision (b), he or she may*
12 *demonstrate passage of the examination administered by the*
13 *National Board for Certification in Occupational Therapy, the*
14 *American Occupational Therapy Certification Board, or the*
15 *American Occupational Therapy Association, as evidence of having*
16 *successfully satisfied the requirements of paragraph (2) or (3) of*
17 *subdivision (b).*

18 *(2) For an applicant who completed AOTA's Career Mobility*
19 *Program, he or she shall demonstrate participation in the program*
20 *and passage of the examination administered by the National*
21 *Board for Certification in Occupational Therapy, the American*
22 *Occupational Therapy Certification Board, or the American*
23 *Occupational Therapy Association, as evidence of having*
24 *successfully satisfied the requirements of paragraphs (1) and (2)*
25 *of subdivision (b).*

26 ~~(e)~~

27 *(d) That the applicant has successfully completed a period of*
28 *supervised fieldwork experience approved by the board and*
29 *arranged by a recognized educational institution where he or she*
30 *met the academic requirements of subdivision (b) or (c) or arranged*
31 *by a nationally recognized professional association. The fieldwork*
32 *requirements for applicants applying for licensure as an*
33 *occupational therapist or certification as an occupational therapy*
34 *assistant shall be as follows: consistent with the requirements of*
35 *the ACOTE accreditation standards, or AOTA's predecessor*
36 *organization, or AOTA's Career Mobility Program, that were in*
37 *effect when the applicant completed his or her educational*
38 *program.*

1 ~~(1) For an occupational therapist, a minimum of 960 hours of~~
2 ~~supervised fieldwork experience shall be completed within 24~~
3 ~~months of the completion of didactic coursework.~~

4 ~~(2) For an occupational therapy assistant, a minimum of 640~~
5 ~~hours of supervised fieldwork experience shall be completed within~~
6 ~~20 months of the completion of didactic coursework.~~

7 ~~(d)~~

8 ~~(e)~~ That the applicant has passed an examination as provided
9 in Section 2570.7.

10 ~~(e)~~

11 ~~(f)~~ That the applicant, at the time of application, is a person over
12 18 years of age, is not addicted to alcohol or any controlled
13 substance, and has not committed acts or crimes constituting
14 grounds for denial of licensure or certification under Section 480.

15 ~~SEC. 18.~~

16 ~~SEC. 23.~~ Section 2570.185 of the Business and Professions
17 Code is amended and renumbered to read:

18 2570.18.5. (a) An occupational therapist shall document his
19 or her evaluation, goals, treatment plan, and summary of treatment
20 in the patient record.

21 (b) An occupational therapy assistant shall document the services
22 provided in the patient record.

23 (c) Occupational therapists and occupational therapy assistants
24 shall document and sign the patient record legibly.

25 (d) Patient records shall be maintained for a period of no less
26 than seven years following the discharge of the patient, except that
27 the records of unemancipated minors shall be maintained at least
28 one year after the minor has reached the age of 18 years, and not
29 in any case less than seven years.

30 ~~SEC. 19.~~

31 ~~SEC. 24.~~ Section 2570.36 is added to the Business and
32 Professions Code, to read:

33 2570.36. If a licensee has knowledge that an applicant or
34 licensee may be in violation of, or has violated, any of the statutes
35 or regulations administered by the board, the licensee shall report
36 this information to the board in writing and shall cooperate with
37 the board in providing information or assistance as may be
38 required.

1 ~~SEC. 20.~~

2 *SEC. 25.* Section 2760.1 of the Business and Professions Code
3 is amended to read:

4 2760.1. (a) A registered nurse whose license has been revoked
5 or suspended or who has been placed on probation may petition
6 the board for reinstatement or modification of penalty, including
7 reduction or termination of probation, after a period not less than
8 the following minimum periods has elapsed from the effective
9 date of the decision ordering that disciplinary action, or if the order
10 of the board or any portion of it is stayed by the board itself or by
11 the superior court, from the date the disciplinary action is actually
12 implemented in its entirety, or for a registered nurse whose initial
13 license application is subject to a disciplinary decision, from the
14 date the initial license was issued:

15 (1) Except as otherwise provided in this section, at least three
16 years for reinstatement of a license that was revoked, except that
17 the board may, in its sole discretion, specify in its order a lesser
18 period of time provided that the period shall be not less than one
19 year.

20 (2) At least two years for early termination of a probation period
21 of three years or more.

22 (3) At least one year for modification of a condition, or
23 reinstatement of a license revoked for mental or physical illness,
24 or termination of probation of less than three years.

25 (b) The board shall give notice to the Attorney General of the
26 filing of the petition. The petitioner and the Attorney General shall
27 be given timely notice by letter of the time and place of the hearing
28 on the petition, and an opportunity to present both oral and
29 documentary evidence and argument to the board. The petitioner
30 shall at all times have the burden of proof to establish by clear and
31 convincing evidence that he or she is entitled to the relief sought
32 in the petition.

33 (c) The hearing may be continued from time to time as the board
34 deems appropriate.

35 (d) The board itself shall hear the petition and the administrative
36 law judge shall prepare a written decision setting forth the reasons
37 supporting the decision.

38 (e) The board may grant or deny the petition, or may impose
39 any terms and conditions that it reasonably deems appropriate as
40 a condition of reinstatement or reduction of penalty.

1 (f) The petitioner shall provide a current set of fingerprints
2 accompanied by the necessary fingerprinting fee.

3 (g) No petition shall be considered while the petitioner is under
4 sentence for any criminal offense, including any period during
5 which the petitioner is on court-imposed probation or parole, or
6 subject to an order of registration pursuant to Section 290 of the
7 Penal Code. No petition shall be considered while there is an
8 accusation or petition to revoke probation pending against the
9 petitioner.

10 (h) Except in those cases where the petitioner has been
11 disciplined pursuant to Section 822, the board may in its discretion
12 deny without hearing or argument any petition that is filed pursuant
13 to this section within a period of two years from the effective date
14 of a prior decision following a hearing under this section.

15 *SEC. 26. Section 3503 of the Business and Professions Code*
16 *is amended to read:*

17 3503. No person other than one who has been licensed to
18 practice as a physician assistant ~~or authorized to practice on interim~~
19 ~~approval under Section 3517~~ shall practice as a physician assistant
20 or in a similar capacity to a physician and surgeon or podiatrist or
21 hold himself or herself out as a “physician assistant,” or shall use
22 any other term indicating or implying that he or she is a physician
23 assistant.

24 *SEC. 27. Section 3517 of the Business and Professions Code*
25 *is amended to read:*

26 3517. The committee shall require a written examination of
27 physician assistants in the manner and under the rules and
28 regulations as it shall prescribe, but the examination shall be
29 conducted in that manner as to ensure that the identity of each
30 applicant taking the examination will be unknown to all of the
31 examiners until all examination papers have been graded. Except
32 as otherwise provided in this chapter, or by regulation, no physician
33 assistant applicant shall receive approval under this chapter without
34 first successfully passing an examination given under the direction
35 of the committee.

36 Examinations for licensure as a physician assistant may be
37 required by the committee under a uniform examination system,
38 and for that purpose the committee may make those arrangements
39 with organizations furnishing examination material as may, in its
40 discretion, be desirable. The committee shall, however, establish

1 a passing score for each examination. The licensure examination
2 for physician assistants shall be held by the committee at least
3 once a year with such additional examinations as the committee
4 deems necessary. The time and place of examination shall be fixed
5 by the committee.

6 ~~The committee may grant interim approval to an applicant for~~
7 ~~licensure as a physician assistant.~~

8 ~~Every applicant who has complied with Section 3519,~~
9 ~~subdivision (a), who has filed an application with the committee~~
10 ~~may, between the date of receipt of notice that the application is~~
11 ~~on file and the date of receipt of his or her license, practice as a~~
12 ~~physician assistant on interim approval under the supervision of~~
13 ~~an approved physician. Applicants shall notify the committee in~~
14 ~~writing of any and all supervising physicians under whom they~~
15 ~~will be performing services prior to practicing under interim~~
16 ~~approval. If the applicant shall fail to take the next succeeding~~
17 ~~licensure examination or fails to pass the examination or fails to~~
18 ~~receive a license, all privileges under this section shall~~
19 ~~automatically cease upon written notification sent to the applicant~~
20 ~~by the committee.~~

21 ~~In the event the licensure examination required by the committee~~
22 ~~is under a uniform examination system, the applicant shall provide~~
23 ~~evidence satisfactory to the committee (a) that an application has~~
24 ~~been filed and accepted for the examination and (b) that the~~
25 ~~organization administering the examination has been requested to~~
26 ~~transmit the applicant's scores to the committee in order for the~~
27 ~~applicant to maintain interim approval. The applicant shall be~~
28 ~~deemed to have failed the examination unless the applicant~~
29 ~~provides evidence to the committee within 30 days after scores~~
30 ~~have been released that he or she has passed the examination.~~

31 *SEC. 28. Section 3518 of the Business and Professions Code*
32 *is amended to read:*

33 3518. The committee shall keep current, two separate registers,
34 one for approved supervising physicians and one for licensed
35 physician's assistants, by specialty if applicable. These registers
36 shall show the name of each licensee, his or her last known address
37 of record, and the date of his or her licensure or approval, ~~including~~
38 ~~those persons practicing under interim approval under Section~~
39 ~~3517. Any interested person is entitled to obtain a copy of the~~
40 ~~register in accordance with the Information Practices Act of 1977~~

(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) upon application to the committee together with a sum as may be fixed by the committee, which amount shall not exceed the cost of this list so furnished.

~~SEC. 21.~~

SEC. 29. Section 3625 of the Business and Professions Code is amended to read:

3625. (a) The Director of Consumer Affairs shall establish an advisory council consisting of nine members. Members of the advisory council shall include three members who are California licensed naturopathic doctors, or have met the requirements for licensure pursuant to this chapter, three members who are California licensed physicians and surgeons, and three public members.

(b) A member of the advisory council shall be appointed for a four-year term. A person shall not serve as a member of the council for more than two consecutive terms. A member shall hold office until the appointment and qualification of his or her successor, or until one year from the expiration of the term for which the member was appointed, whichever first occurs. Vacancies shall be filled by appointment for unexpired terms. The first terms of the members first appointed shall be as follows:

(1) The Governor shall appoint one physician and surgeon member, one naturopathic doctor member, and one public member, with term expirations of June 1, 2006; one physician and surgeon member with a term expiration date of June 1, 2007; and one naturopathic doctor member with a term expiration date of June 1, 2008.

(2) The Senate Committee on Rules shall appoint one physician and surgeon member with a term expiration of June 1, 2008, and one public member with a term expiration of June 1, 2007.

(3) The Speaker of the Assembly shall appoint one naturopathic doctor member with a term expiration of June 1, 2007, and one public member with a term expiration of June 1, 2008.

(c) (1) A public member of the advisory council shall be a citizen of this state for at least five years preceding his or her appointment.

(2) A person shall not be appointed as a public member if the person or the person's immediate family in any manner owns an interest in a college, school, or institution engaged in naturopathic

1 education, or the person or the person's immediate family has an
2 economic interest in naturopathy or has any other conflict of
3 interest. "Immediate family" means the public member's spouse,
4 parents, children, or his or her children's spouses.

5 (d) In order to operate in as cost-effective a manner as possible,
6 the advisory council and any advisory committee created pursuant
7 to this chapter shall meet as few times as necessary to perform its
8 duties.

9 ~~SEC. 22.~~

10 *SEC. 30.* Section 3633.1 of the Business and Professions Code
11 is amended to read:

12 3633.1. The bureau may grant a license to an applicant who
13 meets the requirements of Section 3630, but who graduated prior
14 to 1986, pre-NPLEX, and passed a state or Canadian Province
15 naturopathic licensing examination. Applications under this section
16 shall be received no later than December 31, 2010.

17 ~~SEC. 23.~~

18 *SEC. 31.* Section 3635 of the Business and Professions Code
19 is amended to read:

20 3635. (a) In addition to any other qualifications and
21 requirements for licensure renewal, the bureau shall require the
22 satisfactory completion of 60 hours of approved continuing
23 education biennially. This requirement is waived for the initial
24 license renewal. The continuing education shall meet the following
25 requirements:

26 (1) At least 20 hours shall be in pharmacotherapeutics.

27 (2) No more than 15 hours may be in naturopathic medical
28 journals or osteopathic or allopathic medical journals, or audio or
29 videotaped presentations, slides, programmed instruction, or
30 computer-assisted instruction or preceptorships.

31 (3) No more than 20 hours may be in any single topic.

32 (4) No more than 15 hours of the continuing education
33 requirements for the specialty certificate in naturopathic childbirth
34 attendance shall apply to the 60 hours of continuing education
35 requirement.

36 (b) The continuing education requirements of this section may
37 be met through continuing education courses approved by the
38 bureau, the California Naturopathic Doctors Association, the
39 American Association of Naturopathic Physicians, the California
40 State Board of Pharmacy, the State Board of Chiropractic

1 Examiners, or other courses that meet the standards for continuing
2 education for licensed physicians and surgeons in California.

3 ~~SEC. 24.~~

4 *SEC. 32.* Section 3636 of the Business and Professions Code
5 is amended to read:

6 3636. (a) Upon a written request, the bureau may grant inactive
7 status to a naturopathic doctor who is in good standing and who
8 meets the requirements of Section 462.

9 (b) A person whose license is in inactive status may not engage
10 in any activity for which a license is required under this chapter.

11 (c) A person whose license is in inactive status shall be exempt
12 from continuing education requirements while his or her license
13 is in that status.

14 (d) To restore a license to active status, a person whose license
15 is in inactive status must fulfill continuing education requirements
16 for the two-year period prior to reactivation, and be current with
17 all licensing fees as determined by the bureau.

18 ~~SEC. 25.~~

19 *SEC. 33.* Section 3685 of the Business and Professions Code
20 is amended to read:

21 3685. (a) This chapter shall become inoperative on July 1,
22 2010, and, as of January 1, 2011, is repealed, unless a later enacted
23 statute that is enacted before January 1, 2011, deletes or extends
24 the dates on which it becomes inoperative and is repealed. The
25 repeal of this chapter renders the bureau subject to the review
26 required by Division 1.2 (commencing with Section 473).

27 (b) The bureau shall prepare the report required by Section 473.2
28 no later than September 1, 2008.

29 ~~SEC. 26.~~

30 *SEC. 34.* Section 3750.5 of the Business and Professions Code
31 is amended to read:

32 3750.5. In addition to any other grounds specified in this
33 chapter, the board may deny, suspend, or revoke the license of any
34 applicant or licenseholder who has done any of the following:

35 (a) Obtained, possessed, used, or administered to himself or
36 herself, in violation of law, or furnished or administered to another,
37 any controlled substances, as defined in Division 10 (commencing
38 with Section 11000) of the Health and Safety Code, or any
39 dangerous drug, as defined in Article 2 (commencing with Section

1 4015) of Chapter 9, except as directed by a licensed physician and
2 surgeon, dentist, podiatrist, or other authorized health care provider.

3 (b) Used any controlled substance as defined in Division 10
4 (commencing with Section 11000) of the Health and Safety Code,
5 any dangerous drug as defined in Article 2 (commencing with
6 Section 4015) of Chapter 9, or any alcoholic beverage, to an extent
7 or in a manner dangerous or injurious to himself or herself, another
8 person, or the public, or to the extent that the use impaired his or
9 her ability to conduct with safety to the public the practice
10 authorized by his or her license.

11 (c) Applied for employment or worked in any health care
12 profession or environment while under the influence of alcohol.

13 (d) Been convicted of a criminal offense involving the
14 consumption or self-administration of any of the substances
15 described in subdivision (a), or the possession of, or falsification
16 of a record pertaining to, the substances described in subdivision
17 (a), in which event the record of the conviction is conclusive
18 evidence thereof.

19 (e) Been committed or confined by a court of competent
20 jurisdiction for intemperate use of or addiction to the use of any
21 of the substances described in subdivisions (a), (b), and (c), in
22 which event the court order of commitment or confinement is
23 prima facie evidence of that commitment or confinement.

24 (f) Falsified, or made grossly incorrect, grossly inconsistent, or
25 unintelligible entries in any hospital, patient, or other record
26 pertaining to the substances described in subdivision (a).

27 ~~SEC. 27.~~

28 *SEC. 35.* Section 3753.5 of the Business and Professions Code
29 is amended to read:

30 3753.5. (a) In any order issued in resolution of a disciplinary
31 proceeding before the board, the board or the administrative law
32 judge may direct any practitioner or applicant found to have
33 committed a violation or violations of law, or any term and
34 condition of board probation, to pay to the board a sum not to
35 exceed the costs of the investigation and prosecution of the case.
36 A certified copy of the actual costs, or a good faith estimate of
37 costs where actual costs are not available, signed by the official
38 custodian of the record or his or her designated representative shall
39 be prima facie evidence of the actual costs of the investigation and
40 prosecution of the case.

(b) The costs shall be assessed by the administrative law judge and shall not be increased by the board; however, the costs may be imposed or increased by the board if it does not adopt the proposed decision of the case.

Where an order for recovery of costs is made and timely payment is not made as directed in the board's decision the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any practitioner directed to pay costs.

(c) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(d) (1) The board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew, for a maximum of one year, the license of any licensee who demonstrates financial hardship, through documentation satisfactory to the board, and who enters into a formal agreement with the board to reimburse the board within that one-year period for those unpaid costs.

~~SEC. 28.~~

SEC. 36. Section 3773 of the Business and Professions Code is amended to read:

3773. (a) At the time of application for renewal of a respiratory care practitioner license, the licensee shall notify the board of all of the following:

(1) Whether he or she has been convicted of any crime subsequent to the licensee's previous renewal.

(2) The name and address of the licensee's current employer or employers.

(b) The licensee shall cooperate in providing additional information as requested by the board. If a licensee fails to provide the requested information within 30 days, the license shall become inactive until the information is received.

~~SEC. 29.~~

SEC. 37. Section 4022.5 of the Business and Professions Code is amended to read:

4022.5. (a) "Designated representative" means an individual to whom a license has been granted pursuant to Section 4053. A

1 pharmacist fulfilling the duties of Section 4053 shall not be
2 required to obtain a license as a designated representative.

3 (b) “Designated representative-in-charge” means a designated
4 representative or a pharmacist proposed by a wholesaler or
5 veterinary food-animal drug retailer and approved by the board as
6 the supervisor or manager responsible for ensuring the wholesaler’s
7 or veterinary food-animal drug retailer’s compliance with all state
8 and federal laws and regulations pertaining to practice in the
9 applicable license category.

10 (c) This section shall become operative on January 1, 2006.

11 ~~SEC. 30.~~

12 *SEC. 38.* Section 4027 of the Business and Professions Code
13 is amended to read:

14 4027. (a) As used in this chapter, the terms “skilled nursing
15 facility,” “intermediate care facility,” and other references to health
16 facilities shall be construed with respect to the definitions contained
17 in Article 1 (commencing with Section 1250) of Chapter 2 of
18 Division 2 of the Health and Safety Code.

19 (b) As used in Section 4052.1, “licensed health care facility”
20 means a facility licensed pursuant to Article 1 (commencing with
21 Section 1250) of Chapter 2 of Division 2 of the Health and Safety
22 Code or a facility, as defined in Section 1250 of the Health and
23 Safety Code, operated by a health care service plan licensed
24 pursuant to Chapter 2.2 (commencing with Section 1340) of
25 Division 2 of the Health and Safety Code.

26 (c) As used in Section 4052.2, “health care facility” means a
27 facility, other than a facility licensed under Division 2
28 (commencing with Section 1200) of the Health and Safety Code,
29 that is owned or operated by a health care service plan licensed
30 pursuant to Chapter 2.2 (commencing with Section 1340) of the
31 Health and Safety Code, or by an organization under common
32 ownership or control of the health care service plan; “licensed
33 home health agency” means a private or public organization
34 licensed by the State Department of Health Services pursuant to
35 Chapter 8 (commencing with Section 1725) of Division 2 of the
36 Health and Safety Code, as further defined in Section 1727 of the
37 Health and Safety Code; and “licensed clinic” means a clinic
38 licensed pursuant to Article 1 (commencing with Section 1200)
39 of Chapter 1 of Division 2 of the Health and Safety Code.

(d) “Licensed health care facility” or “facility,” as used in Section 4065, means a health facility licensed pursuant to Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code or a facility that is owned or operated by a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or by an organization under common ownership or control with the health care service plan.

~~SEC. 31.~~

SEC. 39. Section 4036.5 is added to the Business and Professions Code, to read:

4036.5. “Pharmacist-in-charge” means a pharmacist proposed by a pharmacy and approved by the board as the supervisor or manager responsible for ensuring the pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

~~SEC. 32.~~

SEC. 40. Section 4040 of the Business and Professions Code is amended to read:

4040. (a) “Prescription” means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who issues a drug order pursuant to Section 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug order pursuant to either Section 4052.1 or 4052.2.

(2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in this state, or pursuant to either Section 4052.1 or 4052.2 by a pharmacist licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, that contains at least the name and signature of the prescriber, the name and address of the patient in a manner consistent with paragraph (2) of subdivision (a) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code, Section 11164 of the Health and Safety Code shall prevail.

(c) “Electronic transmission prescription” includes both image and data prescriptions. “Electronic image transmission prescription” means any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber. “Electronic data transmission prescription” means any prescription order, other than an electronic image transmission prescription, that is electronically transmitted from a licensed prescriber to a pharmacy.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(e) Nothing in the amendments made to this section (formerly Section 4036) at the 1969 Regular Session of the Legislature shall be construed as expanding or limiting the right that a chiropractor, while acting within the scope of his or her license, may have to prescribe a device.

~~SEC. 33.~~

SEC. 41. Section 4051 of the Business and Professions Code is amended to read:

4051. (a) Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to dispense

1 or compound any prescription pursuant to Section 4040 of a
2 prescriber unless he or she is a pharmacist under this chapter.

3 (b) Notwithstanding any other law, a pharmacist may authorize
4 the initiation of a prescription, pursuant to Section 4052.1, 4052.2,
5 or 4052.3, and otherwise provide clinical advice or information or
6 patient consultation if all of the following conditions are met:

7 (1) The clinical advice or information or patient consultation is
8 provided to a health care professional or to a patient.

9 (2) The pharmacist has access to prescription, patient profile,
10 or other relevant medical information for purposes of patient and
11 clinical consultation and advice.

12 (3) Access to the information described in paragraph (2) is
13 secure from unauthorized access and use.

14 ~~SEC. 34.~~

15 *SEC. 42.* Section 4059.5 of the Business and Professions Code
16 is amended to read:

17 4059.5. (a) Except as otherwise provided in this chapter,
18 dangerous drugs or dangerous devices may only be ordered by an
19 entity licensed by the board and shall be delivered to the licensed
20 premises and signed for and received by a pharmacist. Where a
21 licensee is permitted to operate through a designated representative,
22 the designated representative shall sign for and receive the delivery.

23 (b) A dangerous drug or dangerous device transferred, sold, or
24 delivered to a person within this state shall be transferred, sold, or
25 delivered only to an entity licensed by the board, to a manufacturer,
26 or to an ultimate user or the ultimate user's agent.

27 (c) Notwithstanding subdivisions (a) and (b), deliveries to a
28 hospital pharmacy may be made to a central receiving location
29 within the hospital. However, the dangerous drugs or dangerous
30 devices shall be delivered to the licensed pharmacy premises within
31 one working day following receipt by the hospital, and the
32 pharmacist on duty at that time shall immediately inventory the
33 dangerous drugs or dangerous devices.

34 (d) Notwithstanding any other provision of law, a dangerous
35 drug or dangerous device may be ordered by and provided to a
36 manufacturer, physician, dentist, podiatrist, optometrist,
37 veterinarian, naturopathic doctor pursuant to Section 3640.7, or
38 laboratory, or a physical therapist acting within the scope of his
39 or her license. A person or entity receiving delivery of a dangerous
40 drug or dangerous device, or a duly authorized representative of

1 the person or entity, shall sign for the receipt of the dangerous drug
2 or dangerous device.

3 (e) A dangerous drug or dangerous device shall not be
4 transferred, sold, or delivered to a person outside this state, whether
5 foreign or domestic, unless the transferor, seller, or deliverer does
6 so in compliance with the laws of this state and of the United States
7 and of the state or country to which the dangerous drugs or
8 dangerous devices are to be transferred, sold, or delivered.
9 Compliance with the laws of this state and the United States and
10 of the state or country to which the dangerous drugs or dangerous
11 devices are to be delivered shall include, but not be limited to,
12 determining that the recipient of the dangerous drugs or dangerous
13 devices is authorized by law to receive the dangerous drugs or
14 dangerous devices.

15 (f) Notwithstanding subdivision (a), a pharmacy may take
16 delivery of dangerous drugs and dangerous devices when the
17 pharmacy is closed and no pharmacist is on duty if all of the
18 following requirements are met:

19 (1) The drugs are placed in a secure storage facility in the same
20 building as the pharmacy.

21 (2) Only the pharmacist-in-charge or a pharmacist designated
22 by the pharmacist-in-charge has access to the secure storage facility
23 after dangerous drugs or dangerous devices have been delivered.

24 (3) The secure storage facility has a means of indicating whether
25 it has been entered after dangerous drugs or dangerous devices
26 have been delivered.

27 (4) The pharmacy maintains written policies and procedures for
28 the delivery of dangerous drugs and dangerous devices to a secure
29 storage facility.

30 (5) The agent delivering dangerous drugs and dangerous devices
31 pursuant to this subdivision leaves documents indicating the name
32 and amount of each dangerous drug or dangerous device delivered
33 in the secure storage facility.

34 The pharmacy shall be responsible for the dangerous drugs and
35 dangerous devices delivered to the secure storage facility. The
36 pharmacy shall also be responsible for obtaining and maintaining
37 records relating to the delivery of dangerous drugs and dangerous
38 devices to a secure storage facility.

39 (g) This section shall become operative on January 1, 2006.

1 ~~SEC. 35.~~

2 *SEC. 43.* Section 4060 of the Business and Professions Code
3 is amended to read:

4 4060. No person shall possess any controlled substance, except
5 that furnished to a person upon the prescription of a physician,
6 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
7 pursuant to Section 3640.7, or furnished pursuant to a drug order
8 issued by a certified nurse-midwife pursuant to Section 2746.51,
9 a nurse practitioner pursuant to Section 2836.1, a physician
10 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant
11 to Section 3640.5, or a pharmacist pursuant to either Section 4052.1
12 or 4052.2. This section shall not apply to the possession of any
13 controlled substance by a manufacturer, wholesaler, pharmacy,
14 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
15 naturopathic doctor, certified nurse-midwife, nurse practitioner,
16 or physician assistant, when in stock in containers correctly labeled
17 with the name and address of the supplier or producer.

18 Nothing in this section authorizes a certified nurse-midwife, a
19 nurse practitioner, a physician assistant, or a naturopathic doctor,
20 to order his or her own stock of dangerous drugs and devices.

21 ~~SEC. 36.~~

22 *SEC. 44.* Section 4062 of the Business and Professions Code
23 is amended to read:

24 4062. (a) Notwithstanding Section 4059 or any other provision
25 of law, a pharmacist may, in good faith, furnish a dangerous drug
26 or dangerous device in reasonable quantities without a prescription
27 during a federal, state, or local emergency, to further the health
28 and safety of the public. A record containing the date, name, and
29 address of the person to whom the drug or device is furnished, and
30 the name, strength, and quantity of the drug or device furnished
31 shall be maintained. The pharmacist shall communicate this
32 information to the patient's attending physician as soon as possible.
33 Notwithstanding Section 4060 or any other provision of law, a
34 person may possess a dangerous drug or dangerous device
35 furnished without prescription pursuant to this section.

36 (b) During a declared federal, state, or local emergency, the
37 board may waive application of any provisions of this chapter or
38 the regulations adopted pursuant to it if, in the board's opinion,
39 the waiver will aid in the protection of public health or the
40 provision of patient care.

1 (c) During a declared federal, state, or local emergency, the
2 board shall allow for the employment of a mobile pharmacy in
3 impacted areas in order to ensure the continuity of patient care, if
4 all of the following conditions are met:

5 (1) The mobile pharmacy shares common ownership with at
6 least one currently licensed pharmacy in good standing.

7 (2) The mobile pharmacy retains records of dispensing, as
8 required by subdivision (a).

9 (3) A licensed pharmacist is on the premises and the mobile
10 pharmacy is under the control and management of a pharmacist
11 while the drugs are being dispensed.

12 (4) Reasonable security measures are taken to safeguard the
13 drug supply maintained in the mobile pharmacy.

14 (5) The mobile pharmacy is located within the declared
15 emergency area or affected areas.

16 (6) The mobile pharmacy ceases the provision of services within
17 48 hours following the termination of the declared emergency.

18 ~~SEC. 37.~~

19 *SEC. 45.* Section 4076 of the Business and Professions Code
20 is amended to read:

21 4076. (a) A pharmacist shall not dispense any prescription
22 except in a container that meets the requirements of state and
23 federal law and is correctly labeled with all of the following:

24 (1) Except where the prescriber or the certified nurse-midwife
25 who functions pursuant to a standardized procedure or protocol
26 described in Section 2746.51, the nurse practitioner who functions
27 pursuant to a standardized procedure described in Section 2836.1,
28 or protocol, the physician assistant who functions pursuant to
29 Section 3502.1, the naturopathic doctor who functions pursuant
30 to a standardized procedure or protocol described in Section
31 3640.5, or the pharmacist who functions pursuant to a policy,
32 procedure, or protocol pursuant to either Section 4052.1 or 4052.2
33 orders otherwise, either the manufacturer's trade name of the drug
34 or the generic name and the name of the manufacturer. Commonly
35 used abbreviations may be used. Preparations containing two or
36 more active ingredients may be identified by the manufacturer's
37 trade name or the commonly used name or the principal active
38 ingredients.

39 (2) The directions for the use of the drug.

40 (3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either Section 4052.1 or 4052.2.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

(8) The quantity of the drug or drugs dispensed.

(9) The expiration date of the effectiveness of the drug dispensed.

(10) The condition for which the drug was prescribed if requested by the patient and the condition is indicated on the prescription.

(11) (A) Commencing January 1, 2006, the physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules, except as follows:

(i) Prescriptions dispensed by a veterinarian.

(ii) An exemption from the requirements of this paragraph shall be granted to a new drug for the first 120 days that the drug is on the market and for the 90 days during which the national reference file has no description on file.

(iii) Dispensed medications for which no physical description exists in any commercially available database.

(B) This paragraph applies to outpatient pharmacies only.

(C) The information required by this paragraph may be printed on an auxiliary label that is affixed to the prescription container.

(D) This paragraph shall not become operative if the board, prior to January 1, 2006, adopts regulations that mandate the same labeling requirements set forth in this paragraph.

(b) If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in a skilled nursing, intermediate care, or

1 other health care facility, the requirements of this section will be
2 satisfied if the unit dose medication system contains the
3 aforementioned information or the information is otherwise readily
4 available at the time of drug administration.

5 (c) If a pharmacist dispenses a dangerous drug or device in a
6 facility licensed pursuant to Section 1250 of the Health and Safety
7 Code, it is not necessary to include on individual unit dose
8 containers for a specific patient, the name of the certified
9 nurse-midwife who functions pursuant to a standardized procedure
10 or protocol described in Section 2746.51, the nurse practitioner
11 who functions pursuant to a standardized procedure described in
12 Section 2836.1, or protocol, the physician assistant who functions
13 pursuant to Section 3502.1, the naturopathic doctor who functions
14 pursuant to a standardized procedure or protocol described in
15 Section 3640.5, or the pharmacist who functions pursuant to a
16 policy, procedure, or protocol pursuant to either Section 4052.1
17 or 4052.2.

18 (d) If a pharmacist dispenses a prescription drug for use in a
19 facility licensed pursuant to Section 1250 of the Health and Safety
20 Code, it is not necessary to include the information required in
21 paragraph (11) of subdivision (a) when the prescription drug is
22 administered to a patient by a person licensed under the Medical
23 Practice Act (Chapter 5 (commencing with Section 2000)), the
24 Nursing Practice Act (Chapter 6 (commencing with Section 2700)),
25 or the Vocational Nursing Practice Act (Chapter 6.5 (commencing
26 with Section 2840)), who is acting within his or her scope of
27 practice.

28 ~~SEC. 38.~~

29 *SEC. 46.* Section 4081 of the Business and Professions Code
30 is amended to read:

31 4081. (a) All records of manufacture and of sale, acquisition,
32 or disposition of dangerous drugs or dangerous devices shall be
33 at all times during business hours open to inspection by authorized
34 officers of the law, and shall be preserved for at least three years
35 from the date of making. A current inventory shall be kept by every
36 manufacturer, wholesaler, pharmacy, veterinary food-animal drug
37 retailer, physician, dentist, podiatrist, veterinarian, laboratory,
38 clinic, hospital, institution, or establishment holding a currently
39 valid and unrevoked certificate, license, permit, registration, or
40 exemption under Division 2 (commencing with Section 1200) of

1 the Health and Safety Code or under Part 4 (commencing with
2 Section 16000) of Division 9 of the Welfare and Institutions Code
3 who maintains a stock of dangerous drugs or dangerous devices.

4 (b) The owner, officer, and partner of a pharmacy, wholesaler,
5 or veterinary food-animal drug retailer shall be jointly responsible,
6 with the pharmacist-in-charge or designated
7 representative-in-charge, for maintaining the records and inventory
8 described in this section.

9 (c) The pharmacist-in-charge or designated
10 representative-in-charge shall not be criminally responsible for
11 acts of the owner, officer, partner, or employee that violate this
12 section and of which the pharmacist-in-charge or designated
13 representative-in-charge had no knowledge, or in which he or she
14 did not knowingly participate.

15 (d) This section shall become operative on January 1, 2006.

16 ~~SEC. 39.~~

17 *SEC. 47.* Section 4110 of the Business and Professions Code
18 is amended to read:

19 4110. (a) No person shall conduct a pharmacy in the State of
20 California unless he or she has obtained a license from the board.
21 A license shall be required for each pharmacy owned or operated
22 by a specific person. A separate license shall be required for each
23 of the premises of any person operating a pharmacy in more than
24 one location. The license shall be renewed annually. The board
25 may, by regulation, determine the circumstances under which a
26 license may be transferred.

27 (b) The board may, at its discretion, issue a temporary permit,
28 when the ownership of a pharmacy is transferred from one person
29 to another, upon the conditions and for any periods of time as the
30 board determines to be in the public interest. A temporary permit
31 fee shall be established by the board at an amount not to exceed
32 the annual fee for renewal of a permit to conduct a pharmacy.
33 When needed to protect public safety, a temporary permit may be
34 issued for a period not to exceed 180 days, and may be issued
35 subject to terms and conditions the board deems necessary. If the
36 board determines a temporary permit was issued by mistake or
37 denies the application for a permanent license or registration, the
38 temporary license or registration shall terminate upon either
39 personal service of the notice of termination upon the permitholder
40 or service by certified mail, return receipt requested, at the

1 permitholder's address of record with the board, whichever comes
2 first. Neither for purposes of retaining a temporary permit nor for
3 purposes of any disciplinary or license denial proceeding before
4 the board shall the temporary permitholder be deemed to have a
5 vested property right or interest in the permit.

6 (c) The board may allow the temporary use of a mobile
7 pharmacy when a pharmacy is destroyed or damaged, the mobile
8 pharmacy is necessary to protect the health and safety of the public,
9 and the following conditions are met:

10 (1) The mobile pharmacy shall provide services only on or
11 immediately contiguous to the site of the damaged or destroyed
12 pharmacy.

13 (2) The mobile pharmacy is under the control and management
14 of the pharmacist-in-charge of the pharmacy that was destroyed
15 or damaged.

16 (3) A licensed pharmacist is on the premises while drugs are
17 being dispensed.

18 (4) Reasonable security measures are taken to safeguard the
19 drug supply maintained in the mobile pharmacy.

20 (5) The pharmacy operating the mobile pharmacy provides the
21 board with records of the destruction or damage of the pharmacy
22 and an expected restoration date.

23 (6) Within three calendar days of restoration of the pharmacy
24 services, the board is provided with notice of the restoration of the
25 permanent pharmacy.

26 (7) The mobile pharmacy is not operated for more than 48 hours
27 following the restoration of the permanent pharmacy.

28 ~~SEC. 40.~~

29 *SEC. 48.* Section 4111 of the Business and Professions Code
30 is amended to read:

31 4111. (a) Except as otherwise provided in subdivision (b), (d),
32 or (e), the board shall not issue or renew a license to conduct a
33 pharmacy to any of the following:

34 (1) A person or persons authorized to prescribe or write a
35 prescription, as specified in Section 4040, in the State of California.

36 (2) A person or persons with whom a person or persons specified
37 in paragraph (1) shares a community or other financial interest in
38 the permit sought.

1 (3) Any corporation that is controlled by, or in which 10 percent
2 or more of the stock is owned by a person or persons prohibited
3 from pharmacy ownership by paragraph (1) or (2).

4 (b) Subdivision (a) shall not preclude the issuance of a permit
5 for an inpatient hospital pharmacy to the owner of the hospital in
6 which it is located.

7 (c) The board may require any information the board deems is
8 reasonably necessary for the enforcement of this section.

9 (d) Subdivision (a) shall not preclude the issuance of a new or
10 renewal license for a pharmacy to be owned or owned and operated
11 by a person licensed on or before August 1, 1981, under the
12 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2
13 (commencing with Section 1340) of Division 2 of the Health and
14 Safety Code) and qualified on or before August 1, 1981, under
15 subsection (d) of Section 1310 of Title XIII of the federal Public
16 Health Service Act, as amended, whose ownership includes persons
17 defined pursuant to paragraphs (1) and (2) of subdivision (a).

18 (e) Subdivision (a) shall not preclude the issuance of a new or
19 renewal license for a pharmacy to be owned or owned and operated
20 by a pharmacist authorized to issue a drug order pursuant to Section
21 4052.1 or 4052.2.

22 ~~SEC. 41.~~

23 *SEC. 49.* Section 4126.5 of the Business and Professions Code
24 is amended to read:

25 4126.5. (a) A pharmacy may furnish dangerous drugs only to
26 the following:

27 (1) A wholesaler owned or under common control by the
28 wholesaler from whom the dangerous drug was acquired.

29 (2) The pharmaceutical manufacturer from whom the dangerous
30 drug was acquired.

31 (3) A licensed wholesaler acting as a reverse distributor.

32 (4) Another pharmacy or wholesaler to alleviate a temporary
33 shortage of a dangerous drug that could result in the denial of
34 health care. A pharmacy furnishing dangerous drugs pursuant to
35 this paragraph may only furnish a quantity sufficient to alleviate
36 the temporary shortage.

37 (5) A patient or to another pharmacy pursuant to a prescription
38 or as otherwise authorized by law.

39 (6) A health care provider that is not a pharmacy but that is
40 authorized to purchase dangerous drugs.

1 (7) To another pharmacy under common control.

2 (b) Notwithstanding any other provision of law, a violation of
3 this section may subject the person or persons who committed the
4 violation to a fine not to exceed the amount specified in Section
5 125.9 for each occurrence pursuant to a citation issued by the
6 board.

7 (c) Amounts due from any person under this section on or after
8 January 1, 2005, shall be offset as provided under Section 12419.5
9 of the Government Code. Amounts received by the board under
10 this section shall be deposited into the Pharmacy Board Contingent
11 Fund.

12 (d) For purposes of this section, “common control” means the
13 power to direct or cause the direction of the management and
14 policies of another person whether by ownership, by voting rights,
15 by contract, or by other means.

16 ~~SEC. 42.~~

17 *SEC. 50.* Section 4174 of the Business and Professions Code
18 is amended to read:

19 4174. Notwithstanding any other provision of law, a pharmacist
20 may dispense drugs or devices upon the drug order of a nurse
21 practitioner functioning pursuant to Section 2836.1 or a certified
22 nurse-midwife functioning pursuant to Section 2746.51, a drug
23 order of a physician assistant functioning pursuant to Section
24 3502.1 or a naturopathic doctor functioning pursuant to Section
25 3640.5, or the order of a pharmacist acting under Section 4052.1,
26 4052.2, or 4052.3.

27 ~~SEC. 43.~~

28 *SEC. 51.* Section 4231 of the Business and Professions Code
29 is amended to read:

30 4231. (a) The board shall not renew a pharmacist license unless
31 the applicant submits proof satisfactory to the board that he or she
32 has successfully completed 30 hours of approved courses of
33 continuing pharmacy education during the two years preceding
34 the application for renewal.

35 (b) Notwithstanding subdivision (a), the board shall not require
36 completion of continuing education for the first renewal of a
37 pharmacist license.

38 (c) If an applicant for renewal of a pharmacist license submits
39 the renewal application and payment of the renewal fee but does
40 not submit proof satisfactory to the board that the licensee has

1 completed 30 hours of continuing pharmacy education, the board
2 shall not renew the license and shall issue the applicant an inactive
3 pharmacist license. A licensee with an inactive pharmacist license
4 issued pursuant to this section may obtain an active pharmacist
5 license by paying the renewal fees due and submitting satisfactory
6 proof to the board that the licensee has completed 30 hours of
7 continuing pharmacy education.

8 (d) If, as part of an investigation or audit conducted by the board,
9 a pharmacist fails to provide documentation substantiating the
10 completion of continuing education as required in subdivision (a),
11 the board shall cancel the active pharmacist license and issue an
12 inactive pharmacist license in its place. A licensee with an inactive
13 pharmacist license issued pursuant to this section may obtain an
14 active pharmacist license by paying the renewal fees due and
15 submitting satisfactory proof to the board that the licensee has
16 completed 30 hours of continuing pharmacy education.

17 ~~SEC. 44.~~

18 *SEC. 52.* Section 4301 of the Business and Professions Code
19 is amended to read:

20 4301. The board shall take action against any holder of a license
21 who is guilty of unprofessional conduct or whose license has been
22 procured by fraud or misrepresentation or issued by mistake.
23 Unprofessional conduct shall include, but is not limited to, any of
24 the following:

25 (a) Gross immorality.

26 (b) Incompetence.

27 (c) Gross negligence.

28 (d) The clearly excessive furnishing of controlled substances
29 in violation of subdivision (a) of Section 11153 of the Health and
30 Safety Code.

31 (e) The clearly excessive furnishing of controlled substances in
32 violation of subdivision (a) of Section 11153.5 of the Health and
33 Safety Code. Factors to be considered in determining whether the
34 furnishing of controlled substances is clearly excessive shall
35 include, but not be limited to, the amount of controlled substances
36 furnished, the previous ordering pattern of the customer (including
37 size and frequency of orders), the type and size of the customer,
38 and where and to whom the customer distributes its product.

39 (f) The commission of any act involving moral turpitude,
40 dishonesty, fraud, deceit, or corruption, whether the act is

1 committed in the course of relations as a licensee or otherwise,
2 and whether the act is a felony or misdemeanor or not.

3 (g) Knowingly making or signing any certificate or other
4 document that falsely represents the existence or nonexistence of
5 a state of facts.

6 (h) The administering to oneself, of any controlled substance,
7 or the use of any dangerous drug or of alcoholic beverages to the
8 extent or in a manner as to be dangerous or injurious to oneself,
9 to a person holding a license under this chapter, or to any other
10 person or to the public, or to the extent that the use impairs the
11 ability of the person to conduct with safety to the public the practice
12 authorized by the license.

13 (i) Except as otherwise authorized by law, knowingly selling,
14 furnishing, giving away, or administering, or offering to sell,
15 furnish, give away, or administer, any controlled substance to an
16 addict.

17 (j) The violation of any of the statutes of this state, of any other
18 state, or of the United States regulating controlled substances and
19 dangerous drugs.

20 (k) The conviction of more than one misdemeanor or any felony
21 involving the use, consumption, or self-administration of any
22 dangerous drug or alcoholic beverage, or any combination of those
23 substances.

24 (l) The conviction of a crime substantially related to the
25 qualifications, functions, and duties of a licensee under this chapter.
26 The record of conviction of a violation of Chapter 13 (commencing
27 with Section 801) of Title 21 of the United States Code regulating
28 controlled substances or of a violation of the statutes of this state
29 regulating controlled substances or dangerous drugs shall be
30 conclusive evidence of unprofessional conduct. In all other cases,
31 the record of conviction shall be conclusive evidence only of the
32 fact that the conviction occurred. The board may inquire into the
33 circumstances surrounding the commission of the crime, in order
34 to fix the degree of discipline or, in the case of a conviction not
35 involving controlled substances or dangerous drugs, to determine
36 if the conviction is of an offense substantially related to the
37 qualifications, functions, and duties of a licensee under this chapter.
38 A plea or verdict of guilty or a conviction following a plea of nolo
39 contendere is deemed to be a conviction within the meaning of
40 this provision. The board may take action when the time for appeal

1 has elapsed, or the judgment of conviction has been affirmed on
2 appeal or when an order granting probation is made suspending
3 the imposition of sentence, irrespective of a subsequent order under
4 Section 1203.4 of the Penal Code allowing the person to withdraw
5 his or her plea of guilty and to enter a plea of not guilty, or setting
6 aside the verdict of guilty, or dismissing the accusation,
7 information, or indictment.

8 (m) The cash compromise of a charge of violation of Chapter
9 13 (commencing with Section 801) of Title 21 of the United States
10 Code regulating controlled substances or of Chapter 7
11 (commencing with Section 14000) of Part 3 of Division 9 of the
12 Welfare and Institutions Code relating to the Medi-Cal program.
13 The record of the compromise is conclusive evidence of
14 unprofessional conduct.

15 (n) The revocation, suspension, or other discipline by another
16 state of a license to practice pharmacy, operate a pharmacy, or do
17 any other act for which a license is required by this chapter.

18 (o) Violating or attempting to violate, directly or indirectly, or
19 assisting in or abetting the violation of or conspiring to violate any
20 provision or term of this chapter or of the applicable federal and
21 state laws and regulations governing pharmacy, including
22 regulations established by the board or by any other state or federal
23 regulatory agency.

24 (p) Actions or conduct that would have warranted denial of a
25 license.

26 (q) Engaging in any conduct that subverts or attempts to subvert
27 an investigation of the board.

28 (r) The selling, trading, transferring, or furnishing of drugs
29 obtained pursuant to Section 256b of Title 42 of the United States
30 Code to any person a licensee knows or reasonably should have
31 known, not to be a patient of a covered entity, as defined in
32 paragraph (4) of subsection (a) of Section 256b of Title 42 of the
33 United States Code.

34 (s) The clearly excessive furnishing of dangerous drugs by a
35 wholesaler to a pharmacy that primarily or solely dispenses
36 prescription drugs to patients of long-term care facilities. Factors
37 to be considered in determining whether the furnishing of
38 dangerous drugs is clearly excessive shall include, but not be
39 limited to, the amount of dangerous drugs furnished to a pharmacy
40 that primarily or solely dispenses prescription drugs to patients of

1 long-term care facilities, the previous ordering pattern of the
2 pharmacy, and the general patient population to whom the
3 pharmacy distributes the dangerous drugs. That a wholesaler has
4 established, and employs, a tracking system that complies with
5 the requirements of subdivision (b) of Section 4164 shall be
6 considered in determining whether there has been a violation of
7 this subdivision. This provision shall not be interpreted to require
8 a wholesaler to obtain personal medical information or be
9 authorized to permit a wholesaler to have access to personal
10 medical information except as otherwise authorized by Section 56
11 and following of the Civil Code. For purposes of this section,
12 “long-term care facility” shall have the same meaning given the
13 term in Section 1418 of the Health and Safety Code.

14 (t) This section shall become operative on January 1, 2006.

15 ~~SEC. 45.~~

16 *SEC. 53.* Section 4305 of the Business and Professions Code
17 is amended to read:

18 4305. (a) Failure by any pharmacist to notify the board in
19 writing that he or she has ceased to act as pharmacist-in-charge of
20 a pharmacy, or by any pharmacy to notify the board in writing that
21 a pharmacist-in-charge is no longer acting in that capacity, within
22 the 30-day period specified in Sections 4101 and 4113 shall
23 constitute grounds for disciplinary action.

24 (b) Operation of a pharmacy for more than 30 days without
25 supervision or management by a pharmacist-in-charge shall
26 constitute grounds for disciplinary action.

27 (c) Any person who has obtained a license to conduct a
28 pharmacy, who willfully fails to timely notify the board that the
29 pharmacist-in-charge of the pharmacy has ceased to act in that
30 capacity, and who continues to permit the compounding or
31 dispensing of prescriptions, or the furnishing of drugs or poisons,
32 in his or her pharmacy, except by a pharmacist subject to the
33 supervision and management of a responsible pharmacist-in-charge,
34 shall be subject to summary suspension or revocation of his or her
35 license to conduct a pharmacy.

36 ~~SEC. 46.~~

37 *SEC. 54.* Section 4329 of the Business and Professions Code
38 is amended to read:

39 4329. Any nonpharmacist who takes charge of or acts as
40 supervisor, manager, or pharmacist-in-charge of any pharmacy,

1 or who compounds or dispenses a prescription or furnishes
2 dangerous drugs except as otherwise provided in this chapter, is
3 guilty of a misdemeanor.

4 ~~SEC. 47.~~

5 *SEC. 55* Section 4330 of the Business and Professions Code
6 is amended to read:

7 4330. (a) Any person who has obtained a license to conduct
8 a pharmacy, who fails to place in charge of the pharmacy a
9 pharmacist, or any person, who by himself or herself, or by any
10 other person, permits the compounding or dispensing of
11 prescriptions, or the furnishing of dangerous drugs, in his or her
12 pharmacy, except by a pharmacist, or as otherwise provided in this
13 chapter, is guilty of a misdemeanor.

14 (b) Any pharmacy owner who commits any act that would
15 subvert or tend to subvert the efforts of the pharmacist-in-charge
16 to comply with the laws governing the operation of the pharmacy
17 is guilty of a misdemeanor.

18 *SEC. 56. Section 4980.03 of the Business and Professions Code*
19 *is amended to read:*

20 4980.03. (a) “Board,” as used in this chapter, means the Board
21 of Behavioral Sciences.

22 (b) “Intern,” as used in this chapter, means an unlicensed person
23 who has earned his or her master’s or doctor’s degree qualifying
24 him or her for licensure and is registered with the board.

25 (c) “Trainee,” as used in this chapter, means an unlicensed
26 person who is currently enrolled in a master’s or doctor’s degree
27 program, as specified in Section 4980.40, that is designed to qualify
28 him or her for licensure under this chapter, and who has completed
29 no less than 12 semester units or 18 quarter units of coursework
30 in any qualifying degree program.

31 (d) “Applicant,” as used in this chapter, means an unlicensed
32 person who has completed a master’s or doctoral degree program,
33 as specified in Section 4980.40, and whose application for
34 registration as an intern is pending, or an unlicensed person who
35 has completed the requirements for licensure as specified in this
36 chapter, is no longer registered with the board as an intern, and is
37 currently in the examination process.

38 (e) “Advertise,” as used in this chapter, includes, but is not
39 limited to, the issuance of any card, sign, or device to any person,
40 or the causing, permitting, or allowing of any sign or marking on,

1 or in, any building or structure, or in any newspaper or magazine
2 or in any directory, or any printed matter whatsoever, with or
3 without any limiting qualification. It also includes business
4 solicitations communicated by radio or television broadcasting.
5 Signs within church buildings or notices in church bulletins mailed
6 to a congregation shall not be construed as advertising within the
7 meaning of this chapter.

8 (f) "Experience," as used in this chapter, means experience in
9 interpersonal relationships, psychotherapy, marriage and family
10 therapy, and professional enrichment activities that satisfies the
11 requirement for licensure as a marriage and family therapist
12 pursuant to Section 4980.40.

13 (g) "Supervisor," as used in this chapter, means an individual
14 who meets all of the following requirements:

15 (1) Has been licensed by a state regulatory agency for at least
16 two years as a marriage and family therapist, licensed clinical
17 social worker, licensed psychologist, or licensed physician certified
18 in psychiatry by the American Board of Psychiatry and Neurology.

19 (2) Has not provided therapeutic services to the trainee or intern.

20 (3) Has a current and valid license that is not under suspension
21 or probation.

22 (4) Complies with supervision requirements established by this
23 chapter and by board regulations.

24 (h) "*Client-centered advocacy*," as used in this chapter, includes
25 researching, identifying, and accessing resources, or other
26 activities, related to obtaining or providing services and supports
27 for clients or groups of clients receiving psychotherapy or
28 counseling services.

29 SEC. 57. Section 4980.04 is added to the Business and
30 Professions Code, to read:

31 4980.04. This chapter shall be known and may be cited as the
32 Marriage and Family Therapy Act.

33 SEC. 58. Section 4980.30 of the Business and Professions Code
34 is amended to read:

35 4980.30. Except as otherwise provided herein, a person desiring
36 to practice and to advertise the performance of marriage and family
37 therapy services shall apply to the board for a license~~and~~, shall
38 pay the license fee required by this chapter, and obtain a license
39 from the board.

1 *SEC. 59. Section 4980.43 of the Business and Professions Code*
2 *is amended to read:*

3 4980.43. (a) Prior to applying for licensure examinations, each
4 applicant shall complete experience that shall comply with the
5 following:

6 (1) A minimum of 3,000 hours completed during a period of at
7 least 104 weeks.

8 (2) Not more than 40 hours in any seven consecutive days.

9 (3) Not less than 1,700 hours of supervised experience
10 completed subsequent to the granting of the qualifying master's
11 or doctor's degree.

12 (4) Not more than 1,300 hours of experience obtained prior to
13 completing a master's or doctor's degree. This experience shall
14 be composed as follows:

15 (A) Not more than 750 hours of counseling and direct supervisor
16 contact.

17 (B) Not more than 250 hours of professional enrichment
18 activities, excluding personal psychotherapy as described in
19 paragraph (2) of subdivision (l).

20 (C) Not more than 100 hours of personal psychotherapy as
21 described in paragraph (2) of subdivision (l). The applicant shall
22 be credited for three hours of experience for each hour of personal
23 psychotherapy.

24 (5) No hours of experience may be gained prior to completing
25 either 12 semester units or 18 quarter units of graduate instruction
26 and becoming a trainee except for personal psychotherapy.

27 (6) No hours of experience gained more than six years prior to
28 the date the application for ~~licensure~~ *examination eligibility* was
29 filed, except that up to 500 hours of clinical experience gained in
30 the supervised practicum required by subdivision (b) of Section
31 4980.40 shall be exempt from this six-year requirement.

32 (7) Not more than a total of 1,000 hours of experience for direct
33 supervisor contact and professional enrichment activities.

34 (8) Not more than 500 hours of experience providing group
35 therapy or group counseling.

36 (9) Not more than 250 hours of postdegree experience
37 administering and evaluating psychological tests of counselees,
38 writing clinical reports, writing progress notes, or writing process
39 notes.

1 (10) Not more than 250 hours of experience providing
2 counseling or crisis counseling on the telephone.

3 (11) Not less than 500 total hours of experience in diagnosing
4 and treating couples, families, and children.

5 (12) Not more than 125 hours of experience providing personal
6 psychotherapy services via telemedicine in accordance with Section
7 2290.5.

8 (b) All applicants, trainees, and registrants shall be at all times
9 under the supervision of a supervisor who shall be responsible for
10 ensuring that the extent, kind, and quality of counseling performed
11 is consistent with the training and experience of the person being
12 supervised, and who shall be responsible to the board for
13 compliance with all laws, rules, and regulations governing the
14 practice of marriage and family therapy. Supervised experience
15 shall be gained by interns and trainees either as an employee or as
16 a volunteer. The requirements of this chapter regarding gaining
17 hours of experience and supervision are applicable equally to
18 employees and volunteers. Experience shall not be gained by
19 interns or trainees as an independent contractor.

20 (c) Supervision shall include at least one hour of direct
21 supervisor contact in each week for which experience is credited
22 in each work setting, as specified:

23 (1) A trainee shall receive an average of at least one hour of
24 direct supervisor contact for every five hours of client contact in
25 each setting.

26 (2) Each individual supervised after being granted a qualifying
27 degree shall receive an average of at least one hour of direct
28 supervisor contact for every 10 hours of client contact in each
29 setting in which experience is gained.

30 (3) For purposes of this section, “one hour of direct supervisor
31 contact” means one hour of face-to-face contact on an individual
32 basis or two hours of face-to-face contact in a group of not more
33 than eight persons.

34 (4) All experience gained by a trainee shall be monitored by the
35 supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios
36 specified in this subdivision shall be applicable to all hours gained
37 on or after January 1, 1995.

38 (d) (1) A trainee may be credited with supervised experience
39 completed in any setting that meets all of the following:

1 (A) Lawfully and regularly provides mental health counseling
2 or psychotherapy.

3 (B) Provides oversight to ensure that the trainee's work at the
4 setting meets the experience and supervision requirements set forth
5 in this chapter and is within the scope of practice for the profession
6 as defined in Section 4980.02.

7 (C) Is not a private practice owned by a licensed marriage and
8 family therapist, a licensed psychologist, a licensed clinical social
9 worker, a licensed physician and surgeon, or a professional
10 corporation of any of those licensed professions.

11 (2) Experience may be gained by the trainee solely as part of
12 the position for which the trainee volunteers or is employed.

13 (e) (1) An intern may be credited with supervised experience
14 completed in any setting that meets both of the following:

15 (A) Lawfully and regularly provides mental health counseling
16 or psychotherapy.

17 (B) Provides oversight to ensure that the intern's work at the
18 setting meets the experience and supervision requirements set forth
19 in this chapter and is within the scope of practice for the profession
20 as defined in Section 4980.02.

21 (2) An applicant shall not be employed or volunteer in a private
22 practice, as defined in subparagraph (C) of paragraph (1) of
23 subdivision (d), until registered as an intern.

24 (3) While an intern may be either a paid employee or a
25 volunteer, employers are encouraged to provide fair remuneration
26 to interns.

27 (4) Except for periods of time during a supervisor's vacation or
28 sick leave, an intern who is employed or volunteering in private
29 practice shall be under the direct supervision of a licensee that has
30 satisfied the requirements of subdivision (g) of Section 4980.03.
31 The supervising licensee shall either be employed by and practice
32 at the same site as the intern's employer, or shall be an owner or
33 shareholder of the private practice. Alternative supervision may
34 be arranged during a supervisor's vacation or sick leave if the
35 supervision meets the requirements of this section.

36 (5) Experience may be gained by the intern solely as part of the
37 position for which the intern volunteers or is employed.

38 (f) Except as provided in subdivision (g), all persons shall
39 register with the board as an intern in order to be credited for
40 postdegree hours of supervised experience gained toward licensure.

1 (g) Except when employed in a private practice setting, all
2 postdegree hours of experience shall be credited toward licensure
3 so long as the applicant applies for the intern registration within
4 90 days of the granting of the qualifying master's or doctor's
5 degree and is thereafter granted the intern registration by the board.

6 (h) Trainees, interns, and applicants shall not receive any
7 remuneration from patients or clients, and shall only be paid by
8 their employers.

9 (i) Trainees, interns, and applicants shall only perform services
10 at the place where their employers regularly conduct business,
11 which may include performing services at other locations, so long
12 as the services are performed under the direction and control of
13 their employer and supervisor, and in compliance with the laws
14 and regulations pertaining to supervision. Trainees and interns
15 shall have no proprietary interest in their employers' businesses
16 and shall not lease or rent space, pay for furnishings, equipment
17 or supplies, or in any other way pay for the obligations of their
18 employers.

19 (j) Trainees, interns, or applicants who provide volunteered
20 services or other services, and who receive no more than a total,
21 from all work settings, of five hundred dollars (\$500) per month
22 as reimbursement for expenses actually incurred by those trainees,
23 interns, or applicants for services rendered in any lawful work
24 setting other than a private practice shall be considered an
25 employee and not an independent contractor. The board may audit
26 applicants who receive reimbursement for expenses, and the
27 applicants shall have the burden of demonstrating that the payments
28 received were for reimbursement of expenses actually incurred.

29 (k) Each educational institution preparing applicants for
30 licensure pursuant to this chapter shall consider requiring, and
31 shall encourage, its students to undergo individual, marital or
32 conjoint, family, or group counseling or psychotherapy, as
33 appropriate. Each supervisor shall consider, advise, and encourage
34 his or her interns and trainees regarding the advisability of
35 undertaking individual, marital or conjoint, family, or group
36 counseling or psychotherapy, as appropriate. Insofar as it is deemed
37 appropriate and is desired by the applicant, the educational
38 institution and supervisors are encouraged to assist the applicant
39 in locating that counseling or psychotherapy at a reasonable cost.

1 (l) For purposes of this chapter, “professional enrichment
2 activities” includes the following:

3 (1) Workshops, seminars, training sessions, or conferences
4 directly related to marriage and family therapy attended by the
5 applicant that are approved by the applicant’s supervisor.

6 (2) Participation by the applicant in personal psychotherapy
7 which includes group, marital or conjoint, family, or individual
8 psychotherapy by an appropriately licensed professional.

9 *SEC. 60. Section 4981 of the Business and Professions Code*
10 *is repealed.*

11 ~~4981. This article applies to licenses to engage in the business~~
12 ~~of marriage and family therapy, and does not apply to the licenses~~
13 ~~provided for in Article 5 (commencing with Section 4986) except~~
14 ~~that the board shall have all powers provided in this article not~~
15 ~~inconsistent with this chapter.~~

16 *SEC. 61. Section 4982 of the Business and Professions Code*
17 *is amended to read:*

18 4982. The board may deny a license or registration or may
19 suspend or revoke the license or registration of a licensee or
20 registrant if he or she has been guilty of unprofessional conduct.
21 Unprofessional conduct includes, but is not limited to, the
22 following:

23 (a) The conviction of a crime substantially related to the
24 qualifications, functions, or duties of a licensee or registrant under
25 this chapter. The record of conviction shall be conclusive evidence
26 only of the fact that the conviction occurred. The board may inquire
27 into the circumstances surrounding the commission of the crime
28 in order to fix the degree of discipline or to determine if the
29 conviction is substantially related to the qualifications, functions,
30 or duties of a licensee or registrant under this chapter. A plea or
31 verdict of guilty or a conviction following a plea of nolo contendere
32 made to a charge substantially related to the qualifications,
33 functions, or duties of a licensee or registrant under this chapter
34 shall be deemed to be a conviction within the meaning of this
35 section. The board may order any license or registration suspended
36 or revoked, or may decline to issue a license or registration when
37 the time for appeal has elapsed, or the judgment of conviction has
38 been affirmed on appeal, or, when an order granting probation is
39 made suspending the imposition of sentence, irrespective of a
40 subsequent order under Section 1203.4 of the Penal Code allowing

1 the person to withdraw a plea of guilty and enter a plea of not
2 guilty, or setting aside the verdict of guilty, or dismissing the
3 accusation, information, or indictment.

4 (b) Securing a license or registration by fraud, deceit, or
5 misrepresentation on any application for licensure or registration
6 submitted to the board, whether engaged in by an applicant for a
7 license or registration, or by a licensee in support of any application
8 for licensure or registration.

9 (c) Administering to himself or herself any controlled substance
10 or using of any of the dangerous drugs specified in Section 4022,
11 or of any alcoholic beverage to the extent, or in a manner, as to be
12 dangerous or injurious to the person applying for a registration or
13 license or holding a registration or license under this chapter, or
14 to any other person, or to the public, or, to the extent that the use
15 impairs the ability of the person applying for or holding a
16 registration or license to conduct with safety to the public the
17 practice authorized by the registration or license, ~~or the conviction~~
18 ~~of more than one misdemeanor or any felony involving the use,~~
19 ~~consumption, or self-administration of any of the substances~~
20 ~~referred to in this subdivision, or any combination thereof. The~~
21 ~~board shall deny an application for a registration or license or~~
22 ~~revoke the license or registration of any person, other than one~~
23 ~~who is licensed as a physician and surgeon, who uses or offers to~~
24 ~~use drugs in the course of performing marriage and family therapy~~
25 ~~services.~~

26 (d) Gross negligence or incompetence in the performance of
27 marriage and family therapy.

28 (e) Violating, attempting to violate, or conspiring to violate any
29 of the provisions of this chapter or any regulation adopted by the
30 board.

31 (f) Misrepresentation as to the type or status of a license or
32 registration held by the person, or otherwise misrepresenting or
33 permitting misrepresentation of his or her education, professional
34 qualifications, or professional affiliations to any person or entity.

35 (g) Impersonation of another by any licensee, registrant, or
36 applicant for a license or registration, or, in the case of a licensee,
37 allowing any other person to use his or her license or registration.

38 (h) Aiding or abetting, or employing, directly or indirectly, any
39 unlicensed or unregistered person to engage in conduct for which
40 a license or registration is required under this chapter.

1 (i) Intentionally or recklessly causing physical or emotional
2 harm to any client.

3 (j) The commission of any dishonest, corrupt, or fraudulent act
4 substantially related to the qualifications, functions, or duties of a
5 licensee or registrant.

6 (k) Engaging in sexual relations with a client, or a former client
7 within two years following termination of therapy, soliciting sexual
8 relations with a client, or committing an act of sexual abuse, or
9 sexual misconduct with a client, or committing an act punishable
10 as a sexually related crime, if that act or solicitation is substantially
11 related to the qualifications, functions, or duties of a marriage and
12 family therapist.

13 (l) Performing, or holding oneself out as being able to perform,
14 or offering to perform, or permitting any trainee or registered intern
15 under supervision to perform, any professional services beyond
16 the scope of the license authorized by this chapter.

17 (m) Failure to maintain confidentiality, except as otherwise
18 required or permitted by law, of all information that has been
19 received from a client in confidence during the course of treatment
20 and all information about the client that is obtained from tests or
21 other means.

22 (n) Prior to the commencement of treatment, failing to disclose
23 to the client or prospective client the fee to be charged for the
24 professional services, or the basis upon which that fee will be
25 computed.

26 (o) Paying, accepting, or soliciting any consideration,
27 compensation, or remuneration, whether monetary or otherwise,
28 for the referral of professional clients. All consideration,
29 compensation, or remuneration shall be in relation to professional
30 counseling services actually provided by the licensee. Nothing in
31 this subdivision shall prevent collaboration among two or more
32 licensees in a case or cases. However, no fee shall be charged for
33 that collaboration, except when disclosure of the fee has been made
34 in compliance with subdivision (n).

35 (p) Advertising in a manner that is false, misleading, or
36 deceptive.

37 (q) Reproduction or description in public, or in any publication
38 subject to general public distribution, of any psychological test or
39 other assessment device, the value of which depends in whole or

1 in part on the naivete of the subject, in ways that might invalidate
2 the test or device.

3 (r) Any conduct in the supervision of any registered intern or
4 trainee by any licensee that violates this chapter or any rules or
5 regulations adopted by the board.

6 (s) Performing or holding oneself out as being able to perform
7 professional services beyond the scope of one's competence, as
8 established by one's education, training, or experience. This
9 subdivision shall not be construed to expand the scope of the
10 license authorized by this chapter.

11 (t) Permitting a trainee or registered intern under one's
12 supervision or control to perform, or permitting the trainee or
13 registered intern to hold himself or herself out as competent to
14 perform, professional services beyond the trainee's or registered
15 intern's level of education, training, or experience.

16 (u) The violation of any statute or regulation governing the
17 gaining and supervision of experience required by this chapter.

18 (v) Failure to keep records consistent with sound clinical
19 judgment, the standards of the profession, and the nature of the
20 services being rendered.

21 (w) Failure to comply with the child abuse reporting
22 requirements of Section 11166 of the Penal Code.

23 (x) Failure to comply with the elder and dependent adult abuse
24 reporting requirements of Section 15630 of the Welfare and
25 Institutions Code.

26 (y) Willful violation of Chapter 1 (commencing with Section
27 123100) of Part 1 of Division 106 of the Health and Safety Code.

28 (z) Failure to comply with Section 2290.5.

29 (aa) *Engaging in any conduct that subverts or attempts to*
30 *subvert any licensing examination or the administration of an*
31 *examination as described in Section 123.*

32 *SEC. 62. Section 4989.54 of the Business and Professions Code*
33 *is amended to read:*

34 4989.54. The board may deny a license or may suspend or
35 revoke the license of a licensee if he or she has been guilty of
36 unprofessional conduct. Unprofessional conduct includes, but is
37 not limited to, the following:

38 (a) Conviction of a crime substantially related to the
39 qualifications, functions and duties of an educational psychologist.

1 (1) The record of conviction shall be conclusive evidence only
2 of the fact that the conviction occurred.

3 (2) The board may inquire into the circumstances surrounding
4 the commission of the crime in order to fix the degree of discipline
5 or to determine if the conviction is substantially related to the
6 qualifications, functions, or duties of a licensee under this chapter.

7 (3) A plea or verdict of guilty or a conviction following a plea
8 of nolo contendere made to a charge substantially related to the
9 qualifications, functions, or duties of a licensee under this chapter
10 shall be deemed to be a conviction within the meaning of this
11 section.

12 (4) The board may order a license suspended or revoked, or
13 may decline to issue a license when the time for appeal has elapsed,
14 or the judgment of conviction has been affirmed on appeal, or
15 when an order granting probation is made suspending the
16 imposition of sentence, irrespective of a subsequent order under
17 Section 1203.4 of the Penal Code allowing the person to withdraw
18 a plea of guilty and enter a plea of not guilty or setting aside the
19 verdict of guilty or dismissing the accusation, information, or
20 indictment.

21 (b) Securing a license by fraud, deceit, or misrepresentation on
22 an application for licensure submitted to the board, whether
23 engaged in by an applicant for a license or by a licensee in support
24 of an application for licensure.

25 (c) Administering to himself or herself a controlled substance
26 or using any of the dangerous drugs specified in Section 4022 or
27 an alcoholic beverage to the extent, or in a manner, as to be
28 dangerous or injurious to himself or herself or to any other person
29 or to the public or to the extent that the use impairs his or her ability
30 to safely perform the functions authorized by the license.

31 ~~(d) Conviction of more than one misdemeanor or any felony~~
32 ~~involving the use, consumption, or self-administration of any of~~
33 ~~the substances referred to in subdivision (c) or any combination~~
34 ~~thereof.~~

35 (e)

36 (d) Advertising in a manner that is false, misleading, or
37 deceptive.

38 (f)

1 (e) Violating, attempting to violate, or conspiring to violate any
2 of the provisions of this chapter or any regulation adopted by the
3 board.

4 ~~(g)~~

5 (f) Commission of any dishonest, corrupt, or fraudulent act
6 substantially related to the qualifications, functions, or duties of a
7 licensee.

8 ~~(h)~~

9 (g) Denial of licensure, revocation, suspension, restriction, or
10 any other disciplinary action imposed by another state or territory
11 or possession of the United States or by any other governmental
12 agency, on a license, certificate, or registration to practice
13 educational psychology or any other healing art. A certified copy
14 of the disciplinary action, decision, or judgment shall be conclusive
15 evidence of that action.

16 ~~(i)~~

17 (h) Revocation, suspension, or restriction by the board of a
18 license, certificate, or registration to practice as a clinical social
19 worker or marriage and family therapist.

20 ~~(j)~~

21 (i) Failure to keep records consistent with sound clinical
22 judgment, the standards of the profession, and the nature of the
23 services being rendered.

24 ~~(k)~~

25 (j) Gross negligence or incompetence in the practice of
26 educational psychology.

27 ~~(l)~~

28 (k) Misrepresentation as to the type or status of a license held
29 by the licensee or otherwise misrepresenting or permitting
30 misrepresentation of his or her education, professional
31 qualifications, or professional affiliations to any person or entity.

32 ~~(m)~~

33 (l) Intentionally or recklessly causing physical or emotional
34 harm to any client.

35 ~~(n)~~

36 (m) Engaging in sexual relations with a client or a former client
37 within two years following termination of professional services,
38 soliciting sexual relations with a client, or committing an act of
39 sexual abuse or sexual misconduct with a client or committing an
40 act punishable as a sexually related crime, if that act or solicitation

1 is substantially related to the qualifications, functions, or duties of
2 a licensed educational psychologist.

3 ~~(o)~~

4 ~~(n)~~ Prior to the commencement of treatment, failing to disclose
5 to the client or prospective client the fee to be charged for the
6 professional services or the basis upon which that fee will be
7 computed.

8 ~~(p)~~

9 ~~(o)~~ Paying, accepting, or soliciting any consideration,
10 compensation, or remuneration, whether monetary or otherwise,
11 for the referral of professional clients.

12 ~~(q)~~

13 ~~(p)~~ Failing to maintain confidentiality, except as otherwise
14 required or permitted by law, of all information that has been
15 received from a client in confidence during the course of treatment
16 and all information about the client that is obtained from tests or
17 other means.

18 ~~(r)~~

19 ~~(q)~~ Performing, holding himself or herself out as being able to
20 perform, or offering to perform any professional services beyond
21 the scope of the license authorized by this chapter or beyond his
22 or her field or fields of competence as established by his or her
23 education, training, or experience.

24 ~~(s)~~

25 ~~(r)~~ Reproducing or describing in public, or in any publication
26 subject to general public distribution, any psychological test or
27 other assessment device the value of which depends in whole or
28 in part on the naivete of the subject in ways that might invalidate
29 the test or device. An educational psychologist shall limit access
30 to the test or device to persons with professional interests who can
31 be expected to safeguard its use.

32 ~~(t)~~

33 ~~(s)~~ Aiding or abetting an unlicensed person to engage in conduct
34 requiring a license under this chapter.

35 ~~(u)~~

36 ~~(t)~~ When employed by another person or agency, encouraging,
37 either orally or in writing, the employer's or agency's clientele to
38 utilize his or her private practice for further counseling without
39 the approval of the employing agency or administration.

40 ~~(v)~~

1 (u) Failing to comply with the child abuse reporting
2 requirements of Section 11166 of the Penal Code.

3 ~~(w)~~

4 (v) Failing to comply with the elder and adult dependent abuse
5 reporting requirements of Section 15630 of the Welfare and
6 Institutions Code.

7 ~~(x)~~

8 (w) Willful violation of Chapter 1 (commencing with Section
9 123100) of Part 1 of Division 106 of the Health and Safety Code.

10 (x) *Failure to comply with Section 2290.5.*

11 (y) *Engaging in any conduct that subverts or attempts to subvert*
12 *any licensing examination or the administration of an examination*
13 *as described in Section 123.*

14 ~~SEC. 48.~~

15 SEC. 63. Section 4990.09 is added to the Business and
16 Professions Code, to read:

17 4990.09. The board shall not publish on the Internet the final
18 determination of a citation and fine of one thousand five hundred
19 dollars (\$1,500) or less issued against a licensee or registrant
20 pursuant to Section 125.9 for a period of time in excess of five
21 years from the date of issuance of the citation.

22 SEC. 64. *Section 4992.3 of the Business and Professions Code*
23 *is amended to read:*

24 4992.3. The board may deny a license or a registration, or may
25 suspend or revoke the license or registration of a licensee or
26 registrant if he or she has been guilty of unprofessional conduct.
27 Unprofessional conduct includes, but is not limited to, the
28 following:

29 (a) The conviction of a crime substantially related to the
30 qualifications, functions, or duties of a licensee or registrant under
31 this chapter. The record of conviction shall be conclusive evidence
32 only of the fact that the conviction occurred. The board may inquire
33 into the circumstances surrounding the commission of the crime
34 in order to fix the degree of discipline or to determine if the
35 conviction is substantially related to the qualifications, functions,
36 or duties of a licensee or registrant under this chapter. A plea or
37 verdict of guilty or a conviction following a plea of nolo contendere
38 made to a charge substantially related to the qualifications,
39 functions, or duties of a licensee or registrant under this chapter
40 is a conviction within the meaning of this section. The board may

1 order any license or registration suspended or revoked, or may
2 decline to issue a license or registration when the time for appeal
3 has elapsed, or the judgment of conviction has been affirmed on
4 appeal, or, when an order granting probation is made suspending
5 the imposition of sentence, irrespective of a subsequent order under
6 Section 1203.4 of the Penal Code allowing the person to withdraw
7 a plea of guilty and enter a plea of not guilty, or setting aside the
8 verdict of guilty, or dismissing the accusation, information, or
9 indictment.

10 (b) Securing a license or registration by fraud, deceit, or
11 misrepresentation on any application for licensure or registration
12 submitted to the board, whether engaged in by an applicant for a
13 license or registration, or by a licensee in support of any application
14 for licensure or registration.

15 (c) Administering to himself or herself any controlled substance
16 or using any of the dangerous drugs specified in Section 4022 or
17 any alcoholic beverage to the extent, or in a manner, as to be
18 dangerous or injurious to the person applying for a registration or
19 license or holding a registration or license under this chapter, or
20 to any other person, or to the public, or, to the extent that the use
21 impairs the ability of the person applying for or holding a
22 registration or license to conduct with safety to the public the
23 practice authorized by the registration or license, ~~or the conviction~~
24 ~~of more than one misdemeanor or any felony involving the use,~~
25 ~~consumption, or self-administration of any of the substances~~
26 ~~referred to in this subdivision, or any combination thereof. The~~
27 ~~board shall deny an application for a registration or license or~~
28 ~~revoke the license or registration of any person who uses or offers~~
29 ~~to use drugs in the course of performing clinical social work. This~~
30 ~~provision does not apply to any person also licensed as a physician~~
31 ~~and surgeon under Chapter 5 (commencing with Section 2000) or~~
32 ~~the Osteopathic Act who lawfully prescribes drugs to a patient~~
33 ~~under his or her care.~~

34 (d) Gross negligence or incompetence in the performance of
35 clinical social work.

36 (e) Violating, attempting to violate, or conspiring to violate this
37 chapter or any regulation adopted by the board.

38 (f) Misrepresentation as to the type or status of a license or
39 registration held by the person, or otherwise misrepresenting or
40 permitting misrepresentation of his or her education, professional

1 qualifications, or professional affiliations to any person or entity.
2 For purposes of this subdivision, this misrepresentation includes,
3 but is not limited to, misrepresentation of the person's
4 qualifications as an adoption service provider pursuant to Section
5 8502 of the Family Code.

6 (g) Impersonation of another by any licensee, registrant, or
7 applicant for a license or registration, or, in the case of a licensee,
8 allowing any other person to use his or her license or registration.

9 (h) Aiding or abetting any unlicensed or unregistered person to
10 engage in conduct for which a license or registration is required
11 under this chapter.

12 (i) Intentionally or recklessly causing physical or emotional
13 harm to any client.

14 (j) The commission of any dishonest, corrupt, or fraudulent act
15 substantially related to the qualifications, functions, or duties of a
16 licensee or registrant.

17 (k) Engaging in sexual relations with a client or with a former
18 client within two years from the termination date of therapy with
19 the client, soliciting sexual relations with a client, or committing
20 an act of sexual abuse, or sexual misconduct with a client, or
21 committing an act punishable as a sexually related crime, if that
22 act or solicitation is substantially related to the qualifications,
23 functions, or duties of a clinical social worker.

24 (l) Performing, or holding one's self out as being able to
25 perform, or offering to perform or permitting, any registered
26 associate clinical social worker or intern under supervision to
27 perform any professional services beyond the scope of the license
28 authorized by this chapter.

29 (m) Failure to maintain confidentiality, except as otherwise
30 required or permitted by law, of all information that has been
31 received from a client in confidence during the course of treatment
32 and all information about the client that is obtained from tests or
33 other means.

34 (n) Prior to the commencement of treatment, failing to disclose
35 to the client or prospective client the fee to be charged for the
36 professional services, or the basis upon which that fee will be
37 computed.

38 (o) Paying, accepting, or soliciting any consideration,
39 compensation, or remuneration, whether monetary or otherwise,
40 for the referral of professional clients. All consideration,

1 compensation, or remuneration shall be in relation to professional
2 counseling services actually provided by the licensee. Nothing in
3 this subdivision shall prevent collaboration among two or more
4 licensees in a case or cases. However, no fee shall be charged for
5 that collaboration, except when disclosure of the fee has been made
6 in compliance with subdivision (n).

7 (p) Advertising in a manner that is false, misleading, or
8 deceptive.

9 (q) Reproduction or description in public, or in any publication
10 subject to general public distribution, of any psychological test or
11 other assessment device, the value of which depends in whole or
12 in part on the naivete of the subject, in ways that might invalidate
13 the test or device.

14 (r) Any conduct in the supervision of any registered associate
15 clinical social worker or intern by any licensee that violates this
16 chapter or any rules or regulations adopted by the board.

17 (s) Failure to keep records consistent with sound clinical
18 judgment, the standards of the profession, and the nature of the
19 services being rendered.

20 (t) Failure to comply with the child abuse reporting requirements
21 of Section 11166 of the Penal Code.

22 (u) Failure to comply with the elder and dependent adult abuse
23 reporting requirements of Section 15630 of the Welfare and
24 Institutions Code.

25 (v) Willful violation of Chapter 1 (commencing with Section
26 123100) of Part 1 of Division 106 of the Health and Safety Code.

27 (w) Failure to comply with Section 2290.5.

28 (x) *Engaging in any conduct that subverts or attempts to subvert*
29 *any licensing examination or the administration of an examination*
30 *as described in Section 123.*

31 *SEC. 65. Section 4994.1 of the Business and Professions Code*
32 *is repealed.*

33 ~~4994.1. If those moneys transferred from the Behavioral~~
34 ~~Science Examiners Fund to the General Fund pursuant to the 1991~~
35 ~~Budget Act are redeposited to the Behavioral Science Examiners~~
36 ~~Fund, the fees assessed by the board shall be reduced~~
37 ~~correspondingly.~~

38 *SEC. 66. Section 4996.2 of the Business and Professions Code*
39 *is amended to read:*

1 4996.2. Each applicant shall furnish evidence satisfactory to
2 the board that he or she complies with all of the following
3 requirements:

4 (a) Is at least 21 years of age.

5 (b) Has received a master's degree from an accredited school
6 of social work.

7 (c) Has had two years of supervised post-master's degree
8 experience, as specified in Section ~~4996.20, 4996.21, or 4996.23.~~

9 (d) Has not committed any crimes or acts constituting grounds
10 for denial of licensure under Section 480. The board shall not issue
11 a registration or license to any person who has been convicted of
12 any crime in this or another state or in a territory of the United
13 States that involves sexual abuse of children or who is required to
14 register pursuant to Section 290 of the Penal Code or the equivalent
15 in another state or territory.

16 (e) Has completed adequate instruction and training in the
17 subject of alcoholism and other chemical substance dependency.
18 This requirement applies only to applicants who matriculate on or
19 after January 1, 1986.

20 (f) Has completed instruction and training in spousal or partner
21 abuse assessment, detection, and intervention. This requirement
22 applies to an applicant who began graduate training during the
23 period commencing on January 1, 1995, and ending on December
24 31, 2003. An applicant who began graduate training on or after
25 January 1, 2004, shall complete a minimum of 15 contact hours
26 of coursework in spousal or partner abuse assessment, detection,
27 and intervention strategies, including knowledge of community
28 resources, cultural factors, and same gender abuse dynamics.
29 Coursework required under this subdivision may be satisfactory
30 if taken either in fulfillment of other educational requirements for
31 licensure or in a separate course. This requirement for coursework
32 shall be satisfied by, and the board shall accept in satisfaction of
33 the requirement, a certification from the chief academic officer of
34 the educational institution from which the applicant graduated that
35 the required coursework is included within the institution's required
36 curriculum for graduation.

37 (g) Has completed a minimum of 10 contact hours of training
38 or coursework in human sexuality as specified in Section 1807 of
39 Title 16 of the California Code of Regulations. This training or

1 coursework may be satisfactory if taken either in fulfillment of
2 other educational requirements for licensure or in a separate course.

3 (h) Has completed a minimum of seven contact hours of training
4 or coursework in child abuse assessment and reporting as specified
5 in Section 1807.2 of Title 16 of the California Code of Regulations.
6 This training or coursework may be satisfactory if taken either in
7 fulfillment of other educational requirements for licensure or in a
8 separate course.

9 *SEC. 67. Section 4996.17 of the Business and Professions Code*
10 *is amended to read:*

11 4996.17. (a) Experience gained outside of California shall be
12 accepted toward the licensure requirements if it is substantially
13 the equivalent of the requirements of this chapter.

14 (b) The board may issue a license to any person who, at the time
15 of application, ~~has held~~ holds a valid active clinical social work
16 license issued by a board of clinical social work examiners or
17 corresponding authority of any state, if the person passes the board
18 administered licensing examinations as specified in Section 4996.1
19 and pays the required fees. Issuance of the license is conditioned
20 upon all of the following:

21 (1) The applicant has supervised experience that is substantially
22 the equivalent of that required by this chapter. If the applicant has
23 less than 3,200 hours of qualifying supervised experience, time
24 actively licensed as a clinical social worker shall be accepted at a
25 rate of 100 hours per month up to a maximum of 1,200 hours.

26 (2) Completion of the following coursework or training in or
27 out of this state:

28 (A) A minimum of seven contact hours of training or coursework
29 in child abuse assessment and reporting as specified in Section 28,
30 and any regulations promulgated thereunder.

31 (B) A minimum of 10 contact hours of training or coursework
32 in human sexuality as specified in Section 25, and any regulations
33 promulgated thereunder.

34 (C) A minimum of 15 contact hours of training or coursework
35 in alcoholism and other chemical substance dependency, as
36 specified by regulation.

37 (D) A minimum of 15 contact hours of coursework or training
38 in spousal or partner abuse assessment, detection, and intervention
39 strategies.

1 (3) The applicant's license is not suspended, revoked, restricted,
2 sanctioned, or voluntarily surrendered in any state.

3 (4) The applicant is not currently under investigation in any
4 other state, and has not been charged with an offense for any act
5 substantially related to the practice of social work by any public
6 agency, entered into any consent agreement or been subject to an
7 administrative decision that contains conditions placed by an
8 agency upon an applicant's professional conduct or practice,
9 including any voluntary surrender of license, or been the subject
10 of an adverse judgment resulting from the practice of social work
11 that the board determines constitutes evidence of a pattern of
12 incompetence or negligence.

13 (5) The applicant shall provide a certification from each state
14 where he or she holds a license pertaining to licensure, disciplinary
15 action, and complaints pending.

16 (6) The applicant is not subject to denial of licensure under
17 Section 480, 4992.3, 4992.35, or 4992.36.

18 (c) The board may issue a license to any person who, at the time
19 of application, has held a valid, active clinical social work license
20 for a minimum of four years, issued by a board of clinical social
21 work examiners or a corresponding authority of any state, if the
22 person passes the board administered licensing examinations as
23 specified in Section 4996.1 and pays the required fees. Issuance
24 of the license is conditioned upon all of the following:

25 (1) Completion of the following coursework or training in or
26 out of state:

27 (A) A minimum of seven contact hours of training or coursework
28 in child abuse assessment and reporting as specified in Section 28,
29 and any regulations promulgated thereunder.

30 (B) A minimum of 10 contact hours of training or coursework
31 in human sexuality as specified in Section 25, and any regulations
32 promulgated thereunder.

33 (C) A minimum of 15 contact hours of training or coursework
34 in alcoholism and other chemical substance dependency, as
35 specified by regulation.

36 (D) A minimum of 15 contact hours of coursework or training
37 in spousal or partner abuse assessment, detection, and intervention
38 strategies.

1 (2) The applicant has been licensed as a clinical social worker
2 continuously for a minimum of four years prior to the date of
3 application.

4 (3) The applicant's license is not suspended, revoked, restricted,
5 sanctioned, or voluntarily surrendered in any state.

6 (4) The applicant is not currently under investigation in any
7 other state, and has not been charged with an offense for any act
8 substantially related to the practice of social work by any public
9 agency, entered into any consent agreement or been subject to an
10 administrative decision that contains conditions placed by an
11 agency upon an applicant's professional conduct or practice,
12 including any voluntary surrender of license, or been the subject
13 of an adverse judgment resulting from the practice of social work
14 that the board determines constitutes evidence of a pattern of
15 incompetence or negligence.

16 (5) The applicant provides a certification from each state where
17 he or she holds a license pertaining to licensure, disciplinary action,
18 and complaints pending.

19 (6) The applicant is not subject to denial of licensure under
20 Section 480, 4992.3, 4992.35, or 4992.36.

21 *SEC. 68. Section 4996.18 of the Business and Professions Code*
22 *is amended to read:*

23 4996.18. (a) A person who wishes to be credited with
24 experience toward licensure requirements shall register with the
25 board as an associate clinical social worker prior to obtaining that
26 experience. The application shall be made on a form prescribed
27 by the board.

28 (b) An applicant for registration shall satisfy the following
29 requirements:

30 (1) Possess a master's degree from an accredited school or
31 department of social work.

32 (2) Have committed no crimes or acts constituting grounds for
33 denial of licensure under Section 480.

34 (c) An applicant who possesses a master's degree from a school
35 or department of social work that is a candidate for accreditation
36 by the Commission on Accreditation of the Council on Social
37 Work Education shall be eligible, and shall be required, to register
38 as an associate clinical social worker in order to gain experience
39 toward licensure if the applicant has not committed any crimes or
40 acts that constitute grounds for denial of licensure under Section

1 480. That applicant shall not, however, be eligible for examination
2 until the school or department of social work has received
3 accreditation by the Commission on Accreditation of the Council
4 on Social Work Education.

5 (d) Any experience obtained under the supervision of a spouse
6 or relative by blood or marriage shall not be credited toward the
7 required hours of supervised experience. Any experience obtained
8 under the supervision of a supervisor with whom the applicant has
9 a personal relationship that undermines the authority or
10 effectiveness of the supervision shall not be credited toward the
11 required hours of supervised experience.

12 (e) An applicant who possesses a master's degree from an
13 accredited school or department of social work shall be able to
14 apply experience the applicant obtained during the time the
15 accredited school or department was in candidacy status by the
16 Commission on Accreditation of the Council on Social Work
17 Education toward the licensure requirements, if the experience
18 meets the requirements of Section ~~4996.20, 4996.21, or 4996.23~~.
19 This subdivision shall apply retroactively to persons who possess
20 a master's degree from an accredited school or department of social
21 work and who obtained experience during the time the accredited
22 school or department was in candidacy status by the Commission
23 on Accreditation of the Council on Social Work Education.

24 (f) An applicant for registration or licensure trained in an
25 educational institution outside the United States shall demonstrate
26 to the satisfaction of the board that he or she possesses a master's
27 of social work degree that is equivalent to a master's degree issued
28 from a school or department of social work that is accredited by
29 the Commission on Accreditation of the Council on Social Work
30 Education. These applicants shall provide the board with a
31 comprehensive evaluation of the degree and shall provide any
32 other documentation the board deems necessary. The board has
33 the authority to make the final determination as to whether a degree
34 meets all requirements, including, but not limited to, course
35 requirements regardless of evaluation or accreditation.

36 (g) A registrant shall not provide clinical social work services
37 to the public for a fee, monetary or otherwise, except as an
38 employee.

1 (h) A registrant shall inform each client or patient prior to
2 performing any professional services that he or she is unlicensed
3 and is under the supervision of a licensed professional.

4 *SEC. 69. Section 4996.20 of the Business and Professions Code*
5 *is repealed.*

6 ~~4996.20. The experience required by subdivision (c) of Section~~
7 ~~4996.2 shall meet the following criteria:~~

8 ~~(a) An applicant shall have at least 3,200 hours of post-master's~~
9 ~~experience, supervised by a licensed clinical social worker, in~~
10 ~~providing clinical social work services consisting of psychosocial~~
11 ~~diagnosis; assessment; treatment, including psychotherapy and~~
12 ~~counseling; client-centered advocacy; consultation; and evaluation~~
13 ~~as permitted by Section 4996.9. For persons applying for licensure~~
14 ~~on or after January 1, 1992, this experience shall have been gained~~
15 ~~in not less than two nor more than six years and shall have been~~
16 ~~gained within the six years immediately preceding the date on~~
17 ~~which the application for licensure was filed.~~

18 ~~(b) Notwithstanding the requirements of subdivision (a) that~~
19 ~~3,200 hours of experience shall be gained under the supervision~~
20 ~~of a licensed clinical social worker, up to 1,000 hours of the~~
21 ~~required experience may be gained under the supervision of a~~
22 ~~licensed mental health professional acceptable to the board.~~

23 ~~For purposes of this section, "supervision" means responsibility~~
24 ~~for and control of the quality of social work services being~~
25 ~~provided. Consultation shall not be considered to be supervision.~~
26 ~~Supervision shall include at least one hour of direct supervision~~
27 ~~for each week of experience claimed. Not less than one-half of the~~
28 ~~hours of required supervision shall be individual supervision. The~~
29 ~~remaining hours may be group supervision. "Individual~~
30 ~~supervision" means one supervisor meets with one supervisee at~~
31 ~~a time. "Group supervision" means a supervisor meets with a group~~
32 ~~of no more than eight supervisees at a time.~~

33 ~~(c) For purposes of this section, a "private practice setting" is~~
34 ~~any setting other than a governmental entity, a school, college or~~
35 ~~university, a nonprofit and charitable corporation or a licensed~~
36 ~~health facility. Employment in a private practice setting shall not~~
37 ~~commence until the applicant has been registered as an associate~~
38 ~~clinical social worker. A registrant employed in a private practice~~
39 ~~setting shall not:~~

1 ~~(1) Pay his or her employer for supervision, and shall receive~~
2 ~~fair remuneration from his or her employer.~~

3 ~~(2) Receive any remuneration from patients or clients and shall~~
4 ~~only be paid by his or her employer.~~

5 ~~(3) Perform services at any place except where the registrant's~~
6 ~~employer regularly conducts business.~~

7 ~~(4) Have any proprietary interest in the employer's business.~~

8 ~~(d) A person employed in a setting other than a private practice~~
9 ~~setting may obtain supervision from a person not employed by the~~
10 ~~registrant's employer if that person has signed a written contract~~
11 ~~with the employer to take supervisory responsibility for the~~
12 ~~registrant's social work services.~~

13 ~~(e) This section shall apply only to persons who apply for~~
14 ~~registration on or before December 31, 1998.~~

15 *SEC. 70. Section 4996.21 of the Business and Professions Code*
16 *is repealed.*

17 ~~4996.21. The experience required by subdivision (c) of Section~~
18 ~~4996.2 shall meet the following criteria:~~

19 ~~(a) On or after January 1, 1999, an associate shall have at least~~
20 ~~3,200 hours of post-master's degree experience in providing~~
21 ~~clinical social work services as permitted by Section 4996.9. At~~
22 ~~least 1,700 of these hours shall be gained under the supervision of~~
23 ~~a licensed clinical social worker. The remaining hours of the~~
24 ~~required experience may be gained under the supervision of a~~
25 ~~licensed mental health professional acceptable to the board as~~
26 ~~defined in a regulation adopted by the board. Experience shall~~
27 ~~consist of the following:~~

28 ~~(1) A minimum of 2,000 hours in psychosocial diagnosis,~~
29 ~~assessment, and treatment, including psychotherapy or counseling.~~

30 ~~(2) A maximum of 1,200 hours in client-centered advocacy,~~
31 ~~consultation, evaluation, and research.~~

32 ~~(3) Experience shall have been gained in not less than two nor~~
33 ~~more than six years and shall have been gained within the six years~~
34 ~~immediately preceding the date on which the application for~~
35 ~~licensure was filed.~~

36 ~~(b) Supervision means responsibility for and control of the~~
37 ~~quality of clinical social work services being provided.~~

38 ~~(c) Consultation or peer discussion shall not be considered to~~
39 ~~be supervision.~~

~~(d) Supervision shall include at least one hour of direct supervisor contact for a minimum of 104 weeks and shall include at least one hour of direct supervisor contact for every 10 hours of client contact in each setting where experience is gained. Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker. For purposes of this section, “one hour of direct supervisor contact” means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group setting of not more than eight persons.~~

~~(e) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the board the initial original supervisory plan upon application for licensure.~~

~~(f) (1) Experience shall only be gained in a setting that meets both of the following:~~

~~(A) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.~~

~~(B) Provides oversight to ensure that the associate’s work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.~~

~~(2) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.~~

~~(3) Employment in a private practice as defined in paragraph (4) shall not commence until the applicant has been registered as an associate clinical social worker.~~

~~(4) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.~~

~~(5) If volunteering, the associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.~~

~~(6) If employed, the associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.~~

1 ~~(g) While an associate may be either a paid employee or a~~
2 ~~volunteer, employers are encouraged to provide fair remuneration~~
3 ~~to associates.~~

4 ~~(h) An associate shall not do the following:~~

5 ~~(1) Receive any remuneration from patients or clients and shall~~
6 ~~only be paid by his or her employer.~~

7 ~~(2) Have any proprietary interest in the employer's business.~~

8 ~~(i) An associate, whether employed or volunteering, may obtain~~
9 ~~supervision from a person not employed by the associate's~~
10 ~~employer if that person has signed a written agreement with the~~
11 ~~employer to take supervisory responsibility for the associate's~~
12 ~~social work services.~~

13 *SEC. 71. Section 4996.23 of the Business and Professions Code*
14 *is amended to read:*

15 4996.23. The experience required by subdivision (c) of Section
16 4996.2 shall meet the following criteria:

17 (a) All persons registered with the board on and after January
18 1, 2002, shall have at least 3,200 hours of post-master's degree
19 supervised experience providing clinical social work services as
20 permitted by Section 4996.9. At least 1,700 hours shall be gained
21 under the supervision of a licensed clinical social worker. The
22 remaining required supervised experience may be gained under
23 the supervision of a licensed mental health professional acceptable
24 to the board as defined by a regulation adopted by the board. This
25 experience shall consist of the following:

26 (1) A minimum of 2,000 hours in clinical psychosocial
27 diagnosis, assessment, and treatment, including psychotherapy or
28 counseling.

29 (2) A maximum of 1,200 hours in client-centered advocacy,
30 consultation, evaluation, and research.

31 (3) Of the 2,000 clinical hours required in paragraph (1), no less
32 than 750 hours shall be face-to-face individual or group
33 psychotherapy provided to clients in the context of clinical social
34 work services.

35 (4) A minimum of two years of supervised experience is required
36 to be obtained over a period of not less than 104 weeks and shall
37 have been gained within the six years immediately preceding the
38 date on which the application for licensure was filed.

39 (5) Experience shall not be credited for more than 40 hours in
40 any week.

(b) “Supervision” means responsibility for, and control of, the quality of clinical social work services being provided. Consultation or peer discussion shall not be considered to be supervision.

(c) (1) Prior to the commencement of supervision, a supervisor shall comply with all requirements enumerated in Section 1870 of Title 16 of the California Code of Regulations and shall sign under penalty of perjury the “Responsibility Statement for Supervisors of an Associate Clinical Social Worker” form.

(2) Supervised experience shall include at least one hour of direct supervisor contact for a minimum of 104 weeks. ~~In addition, an associate shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting experience is gained. No more than five hours of supervision, whether individual or group, shall be credited during any single week. Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker. For purposes of this section, “one hour of direct supervisor contact” means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons receiving supervision.~~

(3) *For purposes of this section, “one hour of direct supervisor contact” means one hour per week of face-to-face contact on an individual basis or two hours of face-to-face contact in a group conducted within the same week as the hours claimed.*

(4) *An associate shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which experience is gained. No more than five hours of supervision, whether individual or group, shall be credited during any single week.*

(5) *Group supervision shall be provided in a group of not more than eight supervisees and shall be provided in segments lasting no less than one continuous hour.*

(6) *An associate clinical social worker working in a governmental entity, a school, college, or university, or an institution that is both nonprofit and charitable may be credited with up to 30 hours of direct supervisor contact, via two-way, real*

1 *time videoconferencing. The supervisor shall be responsible for*
2 *ensuring that client confidentiality is upheld.*

3 *(7) Of the 104 weeks of required supervision, 52 weeks shall be*
4 *individual supervision, and of the 52 weeks of required individual*
5 *supervision, not less than 13 weeks shall be supervised by a*
6 *licensed clinical social worker.*

7 (d) The supervisor and the associate shall develop a supervisory
8 plan that describes the goals and objectives of supervision. These
9 goals shall include the ongoing assessment of strengths and
10 limitations and the assurance of practice in accordance with the
11 laws and regulations. The associate shall submit to the board the
12 initial original supervisory plan upon application for licensure.

13 (e) Experience shall only be gained in a setting that meets both
14 of the following:

15 (1) Lawfully and regularly provides clinical social work, mental
16 health counseling, or psychotherapy.

17 (2) Provides oversight to ensure that the associate's work at the
18 setting meets the experience and supervision requirements set forth
19 in this chapter and is within the scope of practice for the profession
20 as defined in Section 4996.9.

21 (f) Experience shall not be gained until the applicant has been
22 registered as an associate clinical social worker.

23 (g) Employment in a private practice as defined in subdivision
24 (h) shall not commence until the applicant has been registered as
25 an associate clinical social worker.

26 (h) A private practice setting is a setting that is owned by a
27 licensed clinical social worker, a licensed marriage and family
28 therapist, a licensed psychologist, a licensed physician and surgeon,
29 or a professional corporation of any of those licensed professions.

30 (i) If volunteering, the associate shall provide the board with a
31 letter from his or her employer verifying his or her voluntary status
32 upon application for licensure.

33 (j) If employed, the associate shall provide the board with copies
34 of his or her W-2 tax forms for each year of experience claimed
35 upon application for licensure.

36 (k) While an associate may be either a paid employee or
37 volunteer, employers are encouraged to provide fair remuneration
38 to associates.

39 (l) Associates shall not do the following:

1 (1) Receive any remuneration from patients or clients and shall
2 only be paid by his or her employer.

3 (2) Have any proprietary interest in the employer's business.

4 (m) An associate, whether employed or volunteering, may obtain
5 supervision from a person not employed by the associate's
6 employer if that person has signed a written agreement with the
7 employer to take supervisory responsibility for the associate's
8 social work services.

9 (n) Notwithstanding any other provision of law, associates and
10 applicants for examination shall receive a minimum of one hour
11 of supervision per week for each setting in which he or she is
12 working.

13 ~~SEC. 49.~~

14 *SEC. 72.* Section 8659 of the Government Code is amended
15 to read:

16 8659. Any physician or surgeon (whether licensed in this state
17 or any other state), hospital, pharmacist, respiratory care
18 practitioner, nurse, or dentist who renders services during any state
19 of war emergency, a state of emergency, or a local emergency at
20 the express or implied request of any responsible state or local
21 official or agency shall have no liability for any injury sustained
22 by any person by reason of those services, regardless of how or
23 under what circumstances or by what cause those injuries are
24 sustained; provided, however, that the immunity herein granted
25 shall not apply in the event of a willful act or omission.

26 ~~SEC. 50.~~

27 *SEC. 73.* Section 11150 of the Health and Safety Code is
28 amended to read:

29 11150. No person other than a physician, dentist, podiatrist,
30 or veterinarian, or naturopathic doctor acting pursuant to Section
31 3640.7 of the Business and Professions Code, or pharmacist acting
32 within the scope of a project authorized under Article 1
33 (commencing with Section 128125) of Chapter 3 of Part 3 of
34 Division 107 or within the scope of Section 4052.1 or 4052.2 of
35 the Business and Professions Code, a registered nurse acting within
36 the scope of a project authorized under Article 1 (commencing
37 with Section 128125) of Chapter 3 of Part 3 of Division 107, a
38 certified nurse-midwife acting within the scope of Section 2746.51
39 of the Business and Professions Code, a nurse practitioner acting
40 within the scope of Section 2836.1 of the Business and Professions

1 Code, a physician assistant acting within the scope of a project
2 authorized under Article 1 (commencing with Section 128125) of
3 Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the
4 Business and Professions Code, a naturopathic doctor acting within
5 the scope of Section 3640.5 of the Business and Professions Code,
6 or an optometrist acting within the scope of Section 3041 of the
7 Business and Professions Code, or an out-of-state prescriber acting
8 pursuant to Section 4005 of the Business and Professions Code
9 shall write or issue a prescription.

10 ~~SEC. 54.~~

11 *SEC. 74.* Section 11165 of the Health and Safety Code is
12 amended to read:

13 11165. (a) To assist law enforcement and regulatory agencies
14 in their efforts to control the diversion and resultant abuse of
15 Schedule II, Schedule III, and Schedule IV controlled substances,
16 and for statistical analysis, education, and research, the Department
17 of Justice shall, contingent upon the availability of adequate funds
18 from the Contingent Fund of the Medical Board of California, the
19 Pharmacy Board Contingent Fund, the State Dentistry Fund, the
20 Board of Registered Nursing Fund, and the Osteopathic Medical
21 Board of California Contingent Fund, maintain the Controlled
22 Substance Utilization Review and Evaluation System (CURES)
23 for the electronic monitoring of the prescribing and dispensing of
24 Schedule II, Schedule III, and Schedule IV controlled substances
25 by all practitioners authorized to prescribe or dispense these
26 controlled substances.

27 (b) The reporting of Schedule III and Schedule IV controlled
28 substance prescriptions to CURES shall be contingent upon the
29 availability of adequate funds from the Department of Justice. The
30 Department of Justice may seek and use grant funds to pay the
31 costs incurred from the reporting of controlled substance
32 prescriptions to CURES. Funds shall not be appropriated from the
33 Contingent Fund of the Medical Board of California, the Pharmacy
34 Board Contingent Fund, the State Dentistry Fund, the Board of
35 Registered Nursing Fund, the Naturopathic Doctor's Fund, or the
36 Osteopathic Medical Board of California Contingent Fund to pay
37 the costs of reporting Schedule III and Schedule IV controlled
38 substance prescriptions to CURES.

39 (c) CURES shall operate under existing provisions of law to
40 safeguard the privacy and confidentiality of patients. Data obtained

1 from CURES shall only be provided to appropriate state, local,
2 and federal persons or public agencies for disciplinary, civil, or
3 criminal purposes and to other agencies or entities, as determined
4 by the Department of Justice, for the purpose of educating
5 practitioners and others in lieu of disciplinary, civil, or criminal
6 actions. Data may be provided to public or private entities, as
7 approved by the Department of Justice, for educational, peer
8 review, statistical, or research purposes, provided that patient
9 information, including any information that may identify the
10 patient, is not compromised. Further, data disclosed to any
11 individual or agency as described in this subdivision shall not be
12 disclosed, sold, or transferred to any third party.

13 (d) For each prescription for a Schedule II, Schedule III, or
14 Schedule IV controlled substance, the dispensing pharmacy or
15 clinic shall provide the following information to the Department
16 of Justice on a weekly basis and in a format specified by the
17 Department of Justice:

18 (1) Full name, address, and the telephone number of the ultimate
19 user or research subject, or contact information as determined by
20 the Secretary of the United States Department of Health and Human
21 Services, and the gender, and date of birth of the ultimate user.

22 (2) The prescriber's category of licensure and license number;
23 federal controlled substance registration number; and the state
24 medical license number of any prescriber using the federal
25 controlled substance registration number of a government-exempt
26 facility.

27 (3) Pharmacy prescription number, license number, and federal
28 controlled substance registration number.

29 (4) NDC (National Drug Code) number of the controlled
30 substance dispensed.

31 (5) Quantity of the controlled substance dispensed.

32 (6) ICD-9 (diagnosis code), if available.

33 (7) Number of refills ordered.

34 (8) Whether the drug was dispensed as a refill of a prescription
35 or as a first-time request.

36 (9) Date of origin of the prescription.

37 (10) Date of dispensing of the prescription.

38 (e) This section shall become operative on January 1, 2005.

1 ~~SEC. 52.~~

2 *SEC. 75.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.

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